

AGREEMENT BETWEEN THE CITY OF LOS ANGELES,
THE CITY OF LONG BEACH, PORTCHECK, LLC, AND
MARINE TERMINAL OPERATORS

FMC No. 201364

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This AGREEMENT ("Agreement"), is made and entered into by and between the City of Los Angeles, a municipal corporation acting by and through its Board of Harbor Commissioners ("POLA"), and the City of Long Beach, acting by and through its Board of Harbor Commissioners ("POLB") (POLA and POLB are hereinafter referred to individually as a "Port" and collectively as the "Ports"), PortCheck LLC ("Vendor") and each of the marine terminal operators listed in Exhibit A hereto (hereinafter referred to individually as an "MTO" and collectively as the "MTOs"). All of the parties hereto are referred to individually as a "Party" and collectively as the "Parties."

RECITALS

A. The Ports and the CAAP. The Ports have jointly developed the San Pedro Bay Ports Clean Air Action Plan ("Clean Air Action Plan" or "CAAP"), which was originally adopted by their Boards of Harbor Commissioners in 2006 and updated in 2010 and 2017. The CAAP is a high-level planning document containing environmental measures to encourage emission reductions from maritime freight industry sources, including drayage trucks, with each Board implementing measures through their separate actions. These actions include tariff provisions as may from time to time be amended, e.g. as set forth in Section 20 of Port of Los Angeles Tariff No. 4 and Rule 34-J: Section 10 of Port of Long Beach Tariff No. 004 (individually referred to as a "Tariff" and collectively referred to herein as the "Tariffs").

B. Clean Trucks Program and Clean Truck Fund Rate. The Boards adopted a Clean Trucks Program ("CTP") measure in the CAAP 2017 Update that the Ports would revise their Tariffs to charge a Clean Truck Fund Rate ("CTF Rate") to Beneficial Cargo

Owners ("BCOs") on loaded cargo on heavy-duty trucks that enter or exit the Ports' terminals, with exemptions/rebates for trucks with CARB-certified heavy duty low-NOx engines or better. The adoption of the CTF Rate Tariff authorizing CTF Rate collection is contingent on the satisfaction of certain specified pre-conditions: (1) promulgation of the State's "Heavy Duty Low NOx Regulation," previously referred to as a near zero emissions heavy duty manufacturing standard, by the California Air Resources Board ("CARB"), (2) completion of an economic study by the Ports that will evaluate the capacity of the industry to absorb the CTF Rate, including how the CTF Rate will affect economic competitiveness and the potential for cargo diversion, (3) technology feasibility and commercial availability of trucks designated for CTF Rate exemptions, and (4) the Ports' establishment of a CTF Rate collection mechanism to collect the CTF Rate from the BCOs, or a BCO-authorized agent. It is anticipated that the Ports will amend the Tariffs to implement the CTF Rate collection at a date in 2021 following satisfaction of all the pre-conditions identified herein.

C. Vendor Selection. To satisfy the fourth pre-condition listed above in Recital B, the CTF Rate collection mechanism, the Ports have jointly conducted a competitive vendor selection process through a Request for Proposals, to select the vendor that will do the following: 1) establish and maintain the system for assessing and collecting the CTF Rate to be set by the Ports' Tariffs, 2) collect and remit in a timely manner the proceeds from said CTF Rate to the Ports, and 3) provide customer service and support for all invested parties, including licensed motor carriers ("LMCs") and truck drivers, BCOs, and the Ports. Vendor was selected by the Ports to develop and operate the CTF Rate Collection System ("Collection System") generally in accordance with Vendor's Response to the RFP, and particularly the specific requirements of the Collection System agreed to by the parties set forth in Exhibits B and C.

NOW, THEREFORE, IT IS MUTUALLY AGREED AS FOLLOWS:

1. SERVICES TO BE PERFORMED BY VENDOR

- A. Rate Collection Scope of Work. Vendor hereby agrees to render to Ports, as an independent contractor, certain professional, technical and expert services for the CTF Rate collection mechanism as set forth in Exhibit B – Scope of Work (“Scope of Work”) attached hereto and hereby made part of this Agreement. The Vendor shall, in accordance with the terms of this Agreement and all local, state and federal rules and requirements applicable to Vendor, provide the services set forth below to the Ports with respect to cargo entering or leaving the MTOs’ terminals at the Ports, in accordance with the CTF Rate specifications to be adopted in the Ports’ Tariffs as described in Recitals A and B. Vendor shall deliver all of the services and deliverables on a timely basis as set forth in the detailed Scope of Work.
- B. Development Costs. Vendor shall furnish the services, materials, equipment, training, and other items necessary to timely develop the Collection System in the Phase 1 Developmental Phase of the Scope of Work, at the costs set forth in Exhibit C - Development Costs Detailed Budget and Schedule (“Development Costs”), attached hereto and incorporated into this Agreement.
- C. Operating Costs. Vendor shall furnish the services, materials, equipment, training, and other items necessary to timely perform the operational collection and remittance as set forth in the Phase 2 Operational Phase of

the Scope of Work, at the costs set forth in Exhibit D – Operational Costs Detailed Budget (“Operating Costs”), attached hereto and incorporated into this Agreement.

- D. Use of Ports Drayage Truck Registry. Vendor shall provide or cause to be provided an appropriate means of identifying and obtaining relevant information with respect to trucks serving MTOs’ terminals at POLA and POLB from the Ports Drayage Truck Registry (“PDTR”) and using such PDTR information to perform the CTF Rate collection and exemption credit/rebating in accordance with the Tariffs.
- E. Rate Collection Procedures; Credit. Vendor agrees to use commercially reasonable efforts to collect, on behalf of the Ports, all CTF Rate amounts on cargo moving to/from the terminals of the MTOs at POLA or POLB in accordance with the Ports’ respective Tariffs. Vendor is hereby authorized to implement the CTF Rate collection methods and procedures (“Rate Collection Procedures”) approved by the Ports as described in the Scope of Work as set forth in Section II.B.1 of Exhibit B. Vendor is authorized to make commercially reasonable adjustments as it may deem advisable, with prior written consent by Ports for any major operational changes to the Rate Collection Procedures. Vendor may permit payments on credit pursuant to such credit terms and agreements as it may reasonably establish.
- F. Ports Sole Control of Tariffs. Notwithstanding the foregoing, Vendor discretion to operate credit and payment systems pursuant to Article 1.D. above, the substantive provisions of the Ports’ Clean Trucks Program Tariffs (including, but not limited to the terms of the CTF Rate amount,

payer and exemptions/rebates, and the criteria for truck access to terminals) shall be determined solely by the Ports and followed by Vendor and the MTOs.

- G. Vendor and Ports Responsibilities. Except with respect to those services which are the responsibility of the Ports pursuant to Article 2 hereof, Vendor shall be responsible for obtaining and providing all computer hardware, software, personnel, and related goods and services necessary to operate the Collection System, collect the CTF Rate amounts and apply the required exemptions/credits/rebates in accordance with the Tariffs and this Agreement.

- H. Remittance of Collected CTF Rate Revenues and Collection Reports. Vendor agrees to remit to the Ports a monthly CTF Rate Collection Report ("Collection Report") detailing the full amount of all collected CTF Rate revenues, in accordance with the payment parameters attached hereto in Exhibit B Scope of Work. Vendor shall remit to the Ports the full agreed-upon portion of the collected CTF Rate revenues in accordance with Port approvals pursuant to the payment procedures of Article 5. The Vendor or an MTO shall not be liable for uncollected CTF Rate revenues, provided Vendor uses commercially reasonable collection practices, following its Rate Collection Procedures concurred by the Ports as provided in the Scope of Work. Reasonableness in this context shall take into account the time and expense involved in collection relative to the amount to be collected, the creditworthiness and financial standing of the debtor, and the availability and operability of the PDTR and other Port and MTO systems.

I. City-required Vendor Performance Conditions.

1. Vendor's performance shall be executed in accordance with the terms and conditions set forth in this Agreement. The Scope of Work as set forth in Exhibit B shall be performed by qualified and competent personnel, whether performance is undertaken by Vendor or third-parties with whom Vendor has contracted ("Subcontractors"). Vendor may, at its discretion, fulfill any of its obligations under this Agreement directly, or through the use of one or more Subcontractor(s), or through a combination thereof. Changes to any of the Subcontractor(s) identified in the bid response shall require the prior approval of the Ports, which shall not be unreasonably withheld. Obligations of this Agreement, whether undertaken by Vendor or Subcontractors, are and shall be the responsibility of Vendor. Vendor acknowledges and agrees that this Agreement creates no rights in Subcontractors with respect to Ports and that obligations that may be owed to Subcontractors, including, but not limited to, the obligation to pay Subcontractors for services performed, are those of Vendor alone. Upon Executive Directors' written request, Vendor shall supply the Ports with all agreements between it and its Subcontractors.
2. Vendor, at its sole cost and expense, shall furnish all services, materials, equipment, subsistence, transportation and all other items necessary to perform the Scope of Work. As between Ports and Vendor, Vendor is solely responsible for any taxes or fees which may be assessed against it or its employees, agents, or Subcontractors resulting from

performance of the Scope of Work, whether social security, payroll or other, and regardless of whether assessed by the federal government, any state, any city, or any other governmental entity.

3. Vendor acknowledges and agrees that it lacks authority to perform any services outside the Scope of Work, and that any services it performs outside the Scope of Work are performed as a volunteer and shall not be compensable under this Agreement.

2. SERVICES TO BE PERFORMED BY THE PORTS

A. The Ports, at their expense, have sole ownership of and are responsible for the maintenance of a complete, accurate and up-to-date PDTR that identifies the status of all trucks regularly serving the Ports with respect to the environmental, registration and concession requirements for trucks established by the Ports. The Ports, at their expense, shall provide Vendor, MTOs and its/their contractor(s) with access to such database and all data therein to the extent necessary to fulfill its/their obligations under this Agreement. Operation and availability of the PDTR shall be in accordance with Exhibit H – Drayage Truck Registry Service Levels, attached hereto and incorporated into this Agreement. The Ports shall furnish Vendor, for its use in performing the services hereunder, the following information via a secure Web Service or other mutually agreed upon format from the PDTR: Truck VIN, RFID, license plate, plate state, POLA CTF Rate Codes, POLB CTF Rate Codes, POLA Gate Access Codes, POLB Gate Access Codes and associated licensed motor carrier(s) SCAC Codes. Vendor and MTOs may rely upon the content or transmission of the data in the database maintained by the Ports and shall not be liable for the consequences of any Ports' errors or omissions in the content or transmission of the data in the database maintained by the Ports.

Upon the Vendor and MTOs' electronic request and the Ports' accurate transmission of the data to the Vendor and MTOs, the recipients shall be responsible for maintaining accurate copies of the data transmitted and stored on the recipients' respective computer systems.

B. The Ports shall furnish Vendor, upon its request, all documents, data, and papers in possession of the Ports, collectively or individually, which may lawfully be supplied to Vendor and which are reasonably necessary for Vendor to perform its obligations.

C. The Executive Director of each Port, or his or her designees, are designated as the contract administrator for each Port respectively, and shall also decide -- all in accordance with the terms and conditions of this Agreement -- any and all questions which may arise as to the quality or acceptability of the Vendor services performed and the manner of performance, the interpretation of instructions to Vendor, the acceptable completion of this Agreement, and the amount of reimbursement due to Vendor. Notwithstanding the preceding, the termination of this Agreement shall be governed by the provisions of Articles 3.B. and Article 4 (Termination) hereof.

3. EFFECTIVE DATE AND TERM OF AGREEMENT

A. This Agreement shall become effective on the date it becomes effective pursuant to the Shipping Act of 1984, as amended ("Shipping Act), including without limitation, action by the Federal Maritime Commission, if any ("Effective Date").

B. This Agreement shall be in full force and effect commencing from the Effective Date and shall continue until the earlier of the following occurs:

1. Three (3) years have lapsed from the Effective Date of this Agreement.

2. In the event that Ports, in their sole discretion, terminate and cancel all or part of this Agreement for any reason upon giving to Vendor six (6) months' notice in writing of their election to cancel and terminate this Agreement, or if POLB terminates upon giving Vendor notice in writing of its intent to cancel and terminate this Agreement following the triggering event described in Paragraph 4 below, this Agreement shall be terminated on the noticed termination date ("Termination Date"). Vendor shall be entitled to reimbursement in accordance with Article 5 of this Agreement for any earned Collection System Development Costs (in accordance with the payment schedule for completed tasks in Exhibit C –Development Costs), as well as any earned Operating Costs (in accordance with the payment schedule for completed tasks in Exhibit D – Operating Costs) that have accrued prior to the noticed Agreement Termination Date. Vendor shall remain responsible for complying with its reporting, recordkeeping and wind-down requirements after termination as set forth in Article 6 of this Agreement.

3. In the event that Vendor, in its sole discretion, terminates and cancels all or any part of this Agreement for any reason upon giving to Ports six (6) months' advance notice in writing of its election to cancel and terminate this Agreement, the Agreement shall be terminated on the noticed termination date ("Termination Date"). Vendor shall be entitled to reimbursement in accordance with Article 5.E. of this Agreement for any earned Collection System Development Costs (in accordance with the payment schedule for completed tasks in Exhibit C –Development Costs), as well as any earned Operating Costs (in accordance with the payment schedule for completed tasks in Exhibit D – Operating Costs) that have

accrued prior to the noticed Agreement Termination Date. Vendor shall remain responsible for complying with its reporting, recordkeeping and wind-down requirements after termination as set forth in Article 6 of this Agreement.

4. TERMINATION DUE TO NON-APPROPRIATION OF FUNDS

This Agreement is subject to the provisions of the Los Angeles City Charter which, among other things, precludes the POLA from making any expenditure of funds or incurring any liability, including contractual commitments, in excess of the amount appropriated thereof.

The POLA Board of Harbor Commissioners (Los Angeles Board), in awarding this Agreement, is expected to appropriate sufficient funds to meet the estimated expenditure of funds through June 30 of the current fiscal year and to make further appropriations in each succeeding fiscal year during the life of the Agreement. However, the Los Angeles Board is under no legal obligation to do so.

The City of Los Angeles, its boards, officers, and employees are not bound by the terms of this Agreement or obligated to make payment thereunder in any fiscal year in which the Los Angeles Board does not appropriate funds therefore. The Los Angeles Board shall promptly notify the Vendor and POLB in the event funds are not appropriated to meet the obligations of the Port of Los Angeles hereunder. The Vendor is not entitled to any compensation from POLA for work performed in any fiscal year in which funds have not been appropriated for the Agreement by the Los Angeles Board.

Upon receipt of a notice of non-appropriation from the Los Angeles Board, the Agreement shall terminate as to POLA, effective as of the date funds are no longer appropriated. Also upon receipt of a notice of non-appropriation, Vendor shall notify POLB of said notice. Following receipt of such notice, POLB may elect to have Vendor

continue to collect the CTF rate at POLB, with all expenses being the responsibility of the POLB pursuant to Article 5.E hereof or, if POLB does not wish to bear responsibility for all expenses, it may terminate this Agreement effective as of the same date on which the Agreement terminates as to POLA, with Vendor being entitled to compensation hereunder, including but not limited to Articles 5.B, 5.C, and 6 hereof.

5. COMPENSATION AND PAYMENT

A. Maximum Compensation. The maximum amount payable under this Agreement, including Development Costs, Operating Costs and applicable reimbursable expenses and Profit & Overhead, in total, to Vendor shall be Ten Million Dollars (\$10,000,000).

B. Vendor Development Costs Reimbursement. The Development Costs of this Agreement shall not exceed \$875,000, as set forth on Exhibit C - Development Costs. Ports shall reimburse Vendor for the earned Development Costs in accordance with Exhibit C and this Article 5. Vendor shall deliver separately to POLA and POLB on a monthly basis each Port's monthly invoice of Vendor's earned Development Costs reimbursement together with supporting documentation in accordance with Exhibit C. Each report shall include all necessary documentation to detail Vendor's development work for that period, in accordance with the Scope of Work and the Development Costs schedule. Invoices shall be due and payable not later than forty-five (45) calendar days from the receipt of the invoice by the Ports. In the event an invoice (excluding amounts disputed in good faith) remains unpaid for more than sixty (60) calendar days from the receipt of said invoice by the Ports, Vendor shall cease work until such time as all invoices are current.

C. Vendor Operating Costs Compensation. The Operating Costs of this Agreement shall not exceed \$9,125,000, as set forth on Exhibit D – Operating Costs¹. Ports shall reimburse Vendor for the earned Operating Costs in accordance with Exhibit D and this Article 5. Vendor shall deliver separately to POLA and POLB on a monthly basis each Port's monthly invoice of Vendor's earned Operating Costs compensation together with supporting documentation in accordance with Exhibit D, along with the Monthly Collections Report in accordance with Section II.C of Exhibit B - Scope of Work. Each report shall include all necessary documentation to detail Vendor's operations for that period, in accordance with the Scope of Work and the Operating Costs schedule of Rate collection services compensation.

D. Procedure for Submission, Approval and Payments of Invoices.

1. Vendor Submission of Proposed Submittal Package. Beginning with the second month following the start of the Operational Phase of this Agreement, Vendor shall deliver separately to POLA and POLB by the 5th business day of each month a Proposed Submittal Package (Proposed Package). Each submittal shall include a Proposed Summary Invoice setting forth the details of authorized charges including monthly operating costs incurred in accordance with Exhibits F & G; and Clean Truck Rate Collection Data as specified in Exhibit B Section II. C. 1.b. The Proposed Package shall cover activity of the proceeding calendar month.

¹ It is understood that Credit Card and Telecheck Fees and Bank Fees may vary with the number of transactions and/or the CTF Rate, and that the amounts shown for these variable expenses in Exhibit D are estimates. Vendor shall provide the Ports with a letter setting forth the initial per transaction rates applicable in Exhibit D when available. The per transaction rate shall be updated annually on the anniversary of the date this Agreement entered into effect, and shall not exceed the maximum established in Section 5.C.

2. Ports Approval of Proposed Package. Each Port shall individually review the Proposed Package and shall send written statement of the approved items and the items that require additional information within 10 business days of receipt.
3. Vendor Submission of Final Submittal Package. Following individual receipt of initial approval of the Proposed Package, Vendor shall submit to POLA and POLB a Final Submittal Package specific to each Port. This package shall include a summary invoice that details total Rate collections and all Port-approved Vendor Costs (Summary Invoice), and a separate summary report of any disputed costs (Dispute Report) as set forth in Exhibit B. Each Port shall process the summary invoice as pursuant to its respective administrative approval process and provide a written approval notice. See example Exhibits G-1, G-2 for Invoices, and G-3 for invoices under investigation.
4. Vendor Retention of Port-Approved Compensation and Remittance of Net Collected Rate Revenues. Within 5 business days of receipt of each Port's Summary Invoice written approval, Vendor shall be permitted to retain the Port-approved amounts of its reimbursement and compensation for that collection period, shall set aside in abeyance for further determination the amounts detailed in the Dispute Report, and shall remit to POLA or POLB the remainder of the entire collected revenues for that collection period concurrently with Vendor's retention of the Port-approved reimbursement and compensation. Notwithstanding the preceding sentence, Vendor shall hold in abeyance any and all amounts otherwise payable to either or both Ports for any period while any of Vendor's Summary Invoices for that period remain unapproved.

5. Dispute Resolution. Vendor and the Ports shall work reasonably and in good faith to resolve the conflicts detailed in a submitted Dispute Report in a timely manner. In the event the Parties are unable to resolve the Dispute Report being investigated by a Port within 45 days, the Vendor's President and applicable PortCheck staff, and the applicable Port's senior management and staff, shall meet and confer to resolve the issue(s). Upon mutual written agreement, Vendor shall be authorized to include the agreed upon amount, along with the agreed upon supporting documentation, in the subsequent month's Summary Invoice.

E. Vendor Entitled to Earned Compensation. The Ports shall be liable for payment to Vendor of the earned compensation as provided in this Article 5.E, during the term of this Agreement, and following termination pursuant to Article 3.B or Article 4 as follows:

1. Development Costs in Exhibit C to the extent Development tasks to build the Collection System are completed and earned, even if the CTF Rate is not imposed and/or cannot be collected on either a permanent or temporary basis; and
2. Operations Costs in Exhibit D to the extent of actual CTF Rate transactions collected and earned, even if the CTF Rate collection is subsequently delayed or interrupted permanently or temporarily or discontinued. During the term of this Agreement, the Ports shall not be relieved of their obligation to pay earned compensation to Vendor in the event any aspect of the CTF Rate, the CTP and/or the CAAP is not implemented, is delayed or suspended, or is discontinued for any reason whatsoever including, but not limited to, any interim or final order of a court (but not if the noncollection results from a material breach of this

Agreement by Vendor). If any aspect of the CTF Rate, the CTP and/or the CAAP is not implemented, is delayed or suspended, or is discontinued due to interim or final order of a court, Ports shall notify Vendor within one business day following such event, and if six months prior notice is not possible before the Termination Date, Vendor agrees to reduce and/or avoid incurring Development Costs and Operating Costs to the maximum extent feasible.

F. Ports' Invoicing Procedures. All invoices to POLA shall comply with the POLA Invoice Procedure in POLA Exhibit F. All invoices to POLB shall comply with the POLB Invoice Procedure in POLB Exhibit G.

6. POST TERMINATION WIND-DOWN PROCEDURES

The Parties agree that following the date of early termination notices received by a Party pursuant to Article 3.B.2 or 3.B.3., or commencing six (6) months prior to the expiration date of this Agreement pursuant to Article 3.B.1., they shall promptly and regularly meet and confer to discuss and agree upon a "wind-down" plan to ensure a smooth cessation of the services rendered hereunder, which may involve: (i) transition to the Ports or another contractor for CTF Rate collection; (ii) cessation of the CTF Rate program temporarily or permanently for any reason; and/or (iii) possible compensation for costs.

7. RECORDKEEPING AND AUDIT RIGHTS

A. Vendor shall keep and maintain full, complete and accurate books of accounts and records of the services it performs under this Agreement in accordance with generally accepted accounting principles consistently applied. Such books and records shall be maintained by Vendor for a period of five (5)

years after completion of services to be performed under this Agreement, or until all disputes, appeals, litigation or claims arising from this Agreement have been resolved, whichever period is longest. This record-keeping requirement shall be deemed fully satisfied upon Vendor delivery of all records under this Agreement to Ports under the Wind-down process of Article 6 following the Termination Date.

B. During the term of this Agreement, Ports may audit and review the books, records, and accounts referred to in subsection A above. Vendor shall make such books, records, and accounts available to Ports within fourteen (14) calendar days of a written request by Ports or a Port. Ports' rights shall also include inspection at reasonable times of the Vendor's office or facilities which are engaged in the performance of the Scope of Work. Vendor shall furnish reasonable facilities and assistance for such review and audit.

8. INDEPENDENT CONTRACTOR

Vendor and any of its Subcontractors, and the MTOs, are independent contractors and not agents or employees of the Ports in the performance of the work required by this Agreement. No representative of Vendor or its Subcontractors shall represent itself as an agent or employee of either POLA or POLB and Vendor and its Subcontractors shall have no power to bind the Ports in contract or otherwise.

9. INDEMNIFICATION

A. Except for the sole negligence or willful misconduct of the Ports, or any of their Boards, Officers, Agents, Employees, Assigns and Successors in Interest, Vendor undertakes and agrees to defend, indemnify and hold harmless the Ports and any of their Boards, Officers, Agents, Employees, Assigns, and Successors in Interest

("Port Indemnitees") from and against all suits and causes of action, claims, losses, demands and expenses, including, but not limited to, attorney's fees (both in house and outside counsel) and cost of litigation or proceedings before any court or any agency (including all actual litigation costs incurred by the Ports, including but not limited to, costs of experts and consultants), damages or liability of any nature whatsoever, for death or injury to any person, including Vendor's employees, agents, and Subcontractors, or damage or destruction of any property of either party hereto or of third parties, arising in any manner by reason of the negligent acts, errors, omissions, recklessness or willful misconduct incident to the performance of this Agreement by Vendor or its Subcontractors of any tier. Rights and remedies available to the Ports under this provision are cumulative of those provided for elsewhere in this Agreement and those allowed under the laws of the United States, the State of California, and the Cities of Long Beach and Los Angeles.

B. The Ports hereby undertake and agree to protect, defend, hold harmless and indemnify Vendor, each of the MTOs, and their respective owners, members, and employees ("Indemnitees") against any and all claims, demands, losses, damages, fines and/or liabilities brought or imposed by a third-party (hereinafter "Claims") arising from or relating to the collection of the CTF Rate as required under this Agreement and for the consequences of any Ports' errors or omissions in the content or transmission of the data in the database maintained by the Ports and relied upon by any Indemnitee(s). The indemnity set forth in this Article 9.B shall apply to and cover litigation by any third party challenging the CTF Rate, or any actions by Vendor or the MTOs taken pursuant to this Agreement to collect or administer any of the foregoing (including, but not limited to, any enforcement or civil penalty action brought by a federal agency with jurisdiction over the subject

matter of this Agreement), except to the extent such Claims are caused by any negligent act, recklessness or willful misconduct by any of the Indemnitees. Said indemnity shall include reasonable attorneys' fees and costs of the defense of any proceedings brought against the Indemnitees in court or by or before any agency. Said indemnity is expressly conditioned upon Indemnitees giving the Ports prompt written notice of any threatened, anticipated, or initiated Claims. Ports shall have the right to select legal counsel and control the defense of any Claims and the Indemnitees agree to assist the Ports, as may be reasonably requested, in such defense. Indemnitees shall have the right to consult with respect to the defense of their interests. In the event that any Indemnitee(s) elects to defend itself with respect to any Claim or Claims or control the defense thereof, this Article 9.B shall not apply and the Ports shall not be responsible for indemnification of such Claim or Claims; provided, however, that if the Ports and some or all of Indemnitees have conflicting or inconsistent interests in the defense of any Claims, those Indemnitees with conflicting or inconsistent interests shall be permitted to engage independent counsel to provide their defense at sole expense of said Indemnitee(s). Furthermore, Indemnitees shall not be entitled to indemnity with respect to any Claim(s) initiated, intervened or joined by amicus curiae participation against the Ports by said Indemnitees.

10. INSURANCE

Vendor shall comply with the insurance provisions set forth in Exhibit E, attached hereto and incorporated by this reference.

11. LICENSES AND PERMITS

Vendor shall obtain and maintain any necessary licenses and permits required under Title 3 and Title 5 of the Long Beach Municipal Code. City may withhold any payment to Vendor until Vendor comes into compliance with such licensing and permitting requirements.

12. REPRESENTATIONS AND WARRANTIES

A. Representations and Warranties of Vendor. Vendor hereby represents and warrants to the Ports that:

(i) It is a limited liability company duly organized and validly existing under the laws of the State of California and has all requisite power, capacity, and authority to enter into this Agreement and perform its obligations hereunder.

(ii) This Agreement has been duly executed and delivered by Vendor and constitutes the legal, valid, and binding obligation of Vendor, is enforceable against Vendor in accordance with its terms, subject to bankruptcy, insolvency and other similar laws relating to or affecting the enforceability of creditors' rights generally, and to general principles of equity.

(iii) The execution, delivery and performance of this Agreement by Vendor will not violate any agreements or instruments to which Vendor is a party, and does not require the consent of any third party.

B. Representations and Warranties of MTOs. Each MTO hereby represents and warrants to the Ports that:

(i) It is duly organized and validly existing under the laws of the jurisdiction in which it is incorporated and has all requisite power, capacity, and authority to enter into this Agreement and perform its obligations hereunder.

(ii) This Agreement has been duly executed and delivered by it or on its behalf and constitutes the legal, valid, and binding obligation of the MTO enforceable against it in accordance with its terms, subject to bankruptcy, insolvency and other similar laws relating to or affecting the enforceability of creditors' rights generally, and to general principles of equity.

(iii) The execution, delivery and performance of this Agreement will not violate any agreements or instruments to which MTO is a party, and does not require the consent of any third party.

(iv) Each MTO shall be liable only for the performance or non-performance of those obligations expressly imposed on it by this Section and Paragraph I.A.4 of Exhibit B – Scope of Work. No MTO shall be liable for any act or omission on the part of the Vendor or any other MTO including, but not limited to, non-collection of any CTF Rate(s).

C. Representations and Warranties of Ports. Each of POLA and POLB hereby represents and warrants to Vendor as to each individual Port that:

(i) This Agreement has been duly executed and delivered by it and constitutes the legal, valid and binding obligation of POLA or POLB (as the case may be), enforceable against each of them in accordance with its terms.

(ii) The execution, delivery and performance of this Agreement by each Port will not violate any agreement or instrument to which it is a party and does not require the consent of any third party.

(iii) Ports have complied with all applicable laws, ordinances and regulations applicable to procurement, approval and execution of this Agreement.

13. PERSONAL SERVICE AGREEMENT

A. During the term hereof, Vendor agrees that it will not enter into other contracts or perform any work for anyone other than the MTOs without the written permission of the Executive Directors of both Ports where the work may conflict directly or indirectly with this Agreement. It is understood and agreed by all parties hereto that any activities of Vendor's related companies in connection with any PierPass program, including OffPeak, as well as any activities of any of its Subcontractors, will not violate this provision of this Agreement.

B. Any assignment or other transfer of this Agreement or any part hereof shall be void provided, however, Vendor may permit subcontractor(s) to perform portions of the Scope of Work in accordance with Article I. All subcontractors whom Vendor utilizes, however, shall be deemed to be its agents. A subcontractor's performance of the Scope of Work shall not be deemed to release Vendor from its obligations under this Agreement or to impose any obligation on the Ports to such subcontractor(s) or give the Subcontractor(s) any rights against the Ports.

C. The enforcement of the terms and conditions of this Agreement and all rights of action relating to such enforcement, shall be strictly reserved to the Vendor, MTOs and the Ports and nothing contained in this Agreement shall give or allow any such claim or right of action by any other or third person under such Agreement.

14. COMPLIANCE WITH APPLICABLE LAWS

Vendor shall at all times in the performance of its obligations comply with all applicable laws, statutes, ordinances, rules and regulations.

15. GOVERNING LAW / VENUE

This Agreement shall be governed by and construed in accordance with the laws of the State of California, without reference to the conflicts of law, rules and principles of such State. The parties agree that all actions or proceedings arising in connection with this Agreement shall be tried and litigated exclusively in the State or Federal courts located in the County of Los Angeles, State of California, in the judicial district required by court rules.

16. TRADEMARKS, COPYRIGHTS, AND PATENTS

Vendor agrees to save, keep, hold harmless, protect and indemnify the Ports and any of its officers or agents from any damages, cost, or expenses in law or equity from infringement of any patent, trademark, service mark or copyright of any person or persons, or corporations in consequence of the public use by Ports of any materials supplied by a Vendor in the performance of this Agreement.

17. PROPRIETARY INFORMATION

A. Collection System. As between Vendor and Ports, Vendor shall own and expressly reserves all rights, title, and interests (including, without limitation, copyrights, patent rights, and other intellectual property rights) in and to any and all, software (including source code or object code and any machine-readable or human-readable code), inventions, improvements, discoveries, trade secrets, ideas, works of authorship, and other intellectual property created, developed, reduced to practice, invented, originated, conceived, or otherwise acquired by or on behalf of Vendor (or its officers, agents, employees, contractors, or subcontractors), individually or jointly with Ports, in connection with, or otherwise performing any duties, obligations, and/or services under,

this Agreement (the foregoing deemed to be a part of the Collection System defined in Recital C). The Parties acknowledge and agree that Collection System includes, but is not limited to, ideas, specifications, drawings, designs, writings, concepts, hardware and standard, off-the-shelf software created by or purchased by Vendor or its Subcontractor(s) at any time with respect to or for use in connection with this Agreement, as well as proprietary or customized software of Vendor or its Subcontractor(s) and all component parts and codes thereof. To the fullest extent permitted per applicable law, Ports hereby assign, transfer, and convey to Vendor, for no additional consideration, immediately and automatically upon coming into existence, any and all rights, title, and/or interests (including, without limitation, intellectual property rights) in and to the Collection System.

B. Subject to Article 17.A, reports, records, data (including without limitation, identification of the participating parties, payment records, invoices, and account information) charts, documents, computations, computer tapes or disks, submittals and other items of any type whatsoever, whether in the form of writing, figures or delineations), which are obtained, generated, compiled or derived in connection with Vendor's performance of operational collection and remittance of the CTF Rate under this Agreement (collectively hereafter referred to as "property"), are owned by Ports as soon as they are developed, whether in draft or final form. Ports have the right to use or permit the use of the property and any ideas or methods represented by such property for any purpose and at any time without compensation other than that provided in this Agreement. Vendor hereby warrants and represents that Ports at all times own rights provided for in this Article 17.B free and clear of all third-party claims whether presently existing or arising in the future, whether or not presently known. Vendor need not obtain for Ports the right to use any idea, design, method, material, equipment or other matter which is the subject of a valid patent; provided, however, that if such patent is owned by Vendor or one of its

employees, or its Subcontractor or the Subcontractor's employees, then to the extent necessary with respect to the Collection System, Vendor shall obtain such right for Ports without additional compensation. Whether or not Vendor's initial proposal or proposals made during this Agreement are accepted by Ports, it is agreed that all information of any nature whatsoever connected with the Scope of Work, regardless of the form of communication, which has been or may be given by Vendor or its Subcontractors on either's behalf, whether prior or subsequent to this Agreement becoming effective, to Ports, their boards, officers, agents or employees, is not given in confidence. Accordingly, Ports or its designees may use or disclose such information without liability of any kind, except as may arise under valid patents.

If patentable work product is produced by Vendor, its officers, agents, employees, or Subcontractors, Ports shall have, without cost or expense to them, an irrevocable, non-exclusive royalty-free license to make and use, itself or by anyone on its behalf, such patented work product in connection with any activity necessary for the Ports to receive or utilize the property in connection with the Collection System. Upon Ports' request, Vendor, at its sole cost and expense, shall promptly furnish or obtain from the appropriate person a form of license satisfactory to the Ports. It is expressly understood and agreed that, as between Ports and Vendor, the referenced license shall arise for Ports' benefit immediately upon the production of the work product, and is not dependent on the written license specified above. Ports may transfer such license to its successors in the operation or ownership of any real or personal property now or hereafter owned or operated by Ports.

18. CONFIDENTIALITY

The data, documents, reports, or other materials which contain information relating to the review, documentation, analysis and evaluation of the work described in this

Agreement and any recommendations made by Vendor relative thereto, as well as any data relating to the collection of the CTF Rate, including but not limited to identification of participating parties, payment records, invoices, account information, shall be considered confidential and shall not be reproduced, altered, used or disseminated by Ports, Vendor, MTOs, or their employees or agents in any manner except and only to the extent necessary in the performance of the work under this Agreement. In addition, Vendor, MTOs, and Ports are required to safeguard such information from access by unauthorized personnel.

In particular, any and all information obtained by the Ports in the course of audits pursuant to Article 7.B. of this Agreement shall be considered as "Confidential" and shall be treated as such by Ports and their contractor(s).

These confidentiality obligations shall not apply to any information (i) which is or becomes available other than through a breach of this Agreement by the disclosing party, (ii) which is lawfully obtained from third parties, (iii) which was known prior to its disclosure, (iv) which is independently developed without the use of the confidential information, (v) which is independently acquired from a third party who is not under confidentiality obligations to the non-disclosing party to this Agreement, (vi) which is used to enforce any party's rights hereunder, or (vi) the disclosure of which is required by or done in connection with any compulsory legal process or law, including without limitation, a court order or the California Public Records Act.

19. NOTICES

In all cases where written notice is to be given under this Agreement, service shall be deemed sufficient if said notice is deposited in the United States mail, postage prepaid.

When so given, such notice shall be effective from the date of mailing of the same. For the purposes hereof, unless otherwise provided by notice in writing from the respective parties, notices to the POLA, POLB and Vendor shall be addressed to the addresses set forth below and notices to the MTOs shall be addressed to the addresses set forth on Exhibit A hereto. Nothing herein contained shall preclude or render inoperative service of such notice in the manner provided by law.

To POLA:

Los Angeles Harbor Department
P.O. Box 151
San Pedro, California 90733-0151
Attention: Director of Environmental Management

To POLB:
City of Long Beach, Harbor Department
P.O. Box 570
Long Beach, California 90801
Attention: Director of Tenant Services

To PortCheck:
13001 Seal Beach Blvd.
Suite 250
Seal Beach, CA 90740
Attention: John Cushing

20. STATE TIDELANDS GRANTS

This Agreement is entered into in furtherance of and as a benefit to the State Tidelands Grants and the trusts created thereby. Therefore, this Agreement is at all times subject to the limitations, conditions, restrictions and reservations contained in and prescribed by the following: 1) the Act of the Legislature of the State of California entitled "An Act Granting to the City of Los Angeles the Tidelands and Submerged Lands of the State Within the Boundaries of Said City," approved June 3, 1929 (Stats. 1929, Ch. 651),

as amended, and provisions of Article VI of the Charter of the City of Los Angeles relating to such lands, and 2) "An Act Granting to the City of Long Beach the Tidelands and Submerged Lands of the State of California Within the Boundaries of Said City," approved May 1, 1911 (Stats. 1911, Ch. 676), as amended, and provisions of Article XII of the Charter of the City of Long Beach relating to such lands. Vendor agrees that any interpretation of this Agreement and the terms contained herein must be consistent with such limitations, conditions, restrictions and reservations.

21. INTEGRATION

This Agreement contains the entire understanding and agreement between the parties hereto with respect to the matters referred to herein. No other representations, covenants, undertakings, or prior or contemporaneous agreements, oral or written, regarding such matters which are not specifically contained, referenced, and/or incorporated into this Agreement by reference shall be deemed in any way to exist or bind any of the parties. Vendor acknowledges that it has not been induced to enter into the Agreement and has not executed the Agreement in reliance upon any promises, representations, warranties or statements not contained, referenced, and/or incorporated into the Agreement. THE PARTIES ACKNOWLEDGE THAT THIS AGREEMENT IS INTENDED TO BE, AND IS, AN INTEGRATED AGREEMENT.

22. SEVERABILITY

Should any part, term, condition or provision of this Agreement be declared or determined by any court of competent jurisdiction to be invalid, illegal or incapable of being enforced by any rule of law, public policy, or city charter, the validity of the remaining parts, terms, conditions or provisions of this Agreement shall not be affected thereby, and

such invalid, illegal or unenforceable part, term, condition or provision shall be treated as follows: (a) if such part, term, condition or provision is immaterial to this Agreement, then such part, term, condition or provision shall be deemed not to be a part of this Agreement; or (b) if such part, term, condition or provision is material to this Agreement, then the parties shall revise the part, term, condition or provision so as to comply with the applicable law or public policy and to effect the original intent of the parties as closely as possible.

23. CONSTRUCTION OF AGREEMENT

This Agreement shall not be construed against the party preparing the same, shall be construed without regard to the identity of the person who drafted such and shall be construed as if all parties had jointly prepared this Agreement and it shall be deemed their joint work product; each and every provision of this Agreement shall be construed as though all of the parties hereto participated equally in the drafting hereof; and any uncertainty or ambiguity shall not be interpreted against any one party. As a result of the foregoing, any rule of construction that a document is to be construed against the drafting party shall not be applicable.

24. TITLES AND CAPTIONS

The parties have inserted the Article titles in this Agreement only as a matter of convenience and for reference, and the Article titles in no way define, limit, extend or describe the scope of this Agreement or the intent of the parties in including any particular provision in this Agreement.

25. MODIFICATION IN WRITING

This Agreement may be modified only by written agreement of all parties. Any such modifications are subject to all applicable approval processes required by, without limitation, City's Charter and City's Administrative Code.

26. WAIVER

A failure of any party to this Agreement to enforce the Agreement upon a breach or default shall not waive the breach or default or any other breach or default. All waivers shall be in writing.

27. EXHIBITS, ARTICLES, OTHER REFERENCES

All exhibits to which reference is made in this Agreement are deemed incorporated in this Agreement, whether or not actually attached. To the extent the terms of an exhibit conflict with or appear to conflict with the terms of the body of the Agreement, the terms of the body of the Agreement shall control. References to Articles are to Articles of this Agreement unless stated otherwise. The Ports' RFP and PortCheck's Response to RFP are important reference documents in the development of this Agreement and are not attached to or incorporated into this Agreement.

28. COUNTERPARTS

This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and all of which shall constitute together one and the same instrument.

LIST OF EXHIBITS –incorporated into this Agreement pursuant to Article 27

A – Marine Terminal Operators Names and Addresses (signatories to this Agreement)

B - Scope of Work

C - Development Costs Detailed Budget and Schedule

D – Operational Costs Detailed Budget

E – Vendor Insurance Requirements (for both Ports)

F - Los Angeles Exhibits

F-1: POLA Invoice Procedure

F-2: Affirmative Action and ADA

F-3: Very Small Business Program/
Local Business Preference Program

F-4: Other City Of Los Angeles Provisions

F-5: Equal Benefits Ordinance

G – Long Beach Exhibits

G-1: Development Costs Invoice Sample

G-2: Operations Costs Invoice Sample

G-3: Expenses Under Review Worksheet Sample

G-4: Small Business Enterprise Program

H – Drayage Truck Registry Service Levels

Agreement Between the City of Los Angeles,
the City of Long Beach, Portcheck, LLC, and
Marine Terminal Operators
FMC Agreement No. _____

SIGNATURE PAGE

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on
the date to the left of their signatures.

**PORTCHECK LLC,
a limited liability company**

Dated: May 11, 2021

By: 
JOHN CUSHING
President

**THE CITY OF LONG BEACH
HARBOR DEPARTMENT,
acting by and through its
Board of Harbor Commissioners**

Dated: _____

By: _____
MARIO CORDERO
Executive Director

Attest: _____
SHANA ESPINOZA
Chief of Staff to the Board

APPROVED AS TO FORM:

_____, 20____
CHARLES PARKIN, Long Beach City Attorney

By _____
Dawn McIntosh, Deputy City Attorney

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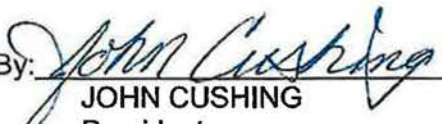
Agreement Between the City of Los Angeles,
the City of Long Beach, Portcheck, LLC, and
Marine Terminal Operators
FMC Agreement No. _____

SIGNATURE PAGE

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on
the date to the left of their signatures.

**PORTCHECK LLC,
a limited liability company**


Dated: _____

By: 
JOHN CUSHING
President

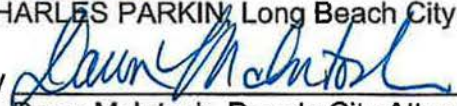
**THE CITY OF LONG BEACH
HARBOR DEPARTMENT,
acting by and through its
Board of Harbor Commissioners**

Dated: June 3, 2021

By: 
MARIO CORDERO
Executive Director

Attest: 
SHANA ESPINOZA
Chief of Staff to the Board

APPROVED AS TO FORM:

June 3, 2021
CHARLES PARKIN, Long Beach City Attorney
By: 
Dawn McIntosh, Deputy City Attorney

LEGAL\51848353\1

Agreement Between the City of Los Angeles,
the City of Long Beach, Portcheck, LLC, and
Marine Terminal Operators
FMC Agreement No. _____

SIGNATURE PAGE CONT'D

Dated: June 8, 2021

THE CITY OF LOS ANGELES
HARBOR DEPARTMENT,
acting by and through its
Board of Harbor Commissioners

By: _____

EUGENE D. SEROKA
Executive Director

Attest: _____

AMBER M. KLESSES
Board Secretary

APPROVED AS TO FORM AND LEGALITY

5/13, 2021

MICHAEL N. FEUER, Los Angeles City
Attorney
Janna B. Sidley, General Counsel


By _____

JOY M. CROSE, Asst. General Counsel

FUNDS AVAILABLE STAMP

May 11, 2021

AGREEMENT BETWEEN THE CITY OF LOS ANGELES,
THE CITY OF LONG BEACH, PORTCHECK, LLC
AND MARINE TERMINAL OPERATORS

Account#	59967	W.O. #	78090
Ctr/Div#	0330	Job Fac.#	637-00
Proj/Prog#	000		
Budget FY:		Amount:	
FY 22		\$437,500	
TOTAL		\$437,500	
<u>For Acct/Budget Div. Use Only</u>			
Verified by:			
Verified Funds Available:		Digitally signed by Frank Liu Date: 2021.05.11 16:21:47 +07'00'	
Date Approved:		5/11/2021	

Agreement Between the City of Los Angeles,
the City of Long Beach, Portcheck, LLC, and
Marine Terminal Operators
FMC Agreement No. _____

SIGNATURE PAGE CONT'D

APM TERMINALS PACIFIC LLC



By: _____
Name: JOHN OCHS
Title: Senior Director, APMT

FENIX MARINE SERVICES, LTD.

By: _____
Name: _____
Title: _____

EVERPORT TERMINAL SERVICES, INC.

INTERNATIONAL TRANSPORTATION
SERVICE, LLC

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

LBCT LLC

TOTAL TERMINALS INTERNATIONAL,
LLC

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

WEST BASIN CONTAINER TERMINAL
LLC

PACIFIC MARITIME SERVICES, L.L.C.

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

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Agreement Between the City of Los Angeles,
the City of Long Beach, Portcheck, LLC, and
Marine Terminal Operators
FMC Agreement No. _____

SIGNATURE PAGE CONT'D

APM TERMINALS PACIFIC LLC

By:
Name:
Title:

FENIX MARINE SERVICES, LTD.



By:
Name: Zach Christensen
Title: General Manager

EVERPORT TERMINAL SERVICES, INC.

By:
Name:
Title:

INTERNATIONAL TRANSPORTATION
SERVICE, LLC

By:
Name:
Title:

LBCT LLC

By:
Name:
Title:

TOTAL TERMINALS INTERNATIONAL,
LLC

By:
Name:
Title:

WEST BASIN CONTAINER TERMINAL
LLC

By:
Name:
Title:

PACIFIC MARITIME SERVICES, L.L.C.

By:
Name:
Title:

LEGAL\51848353\1

Agreement Between the City of Los Angeles,
the City of Long Beach, Portcheck, LLC, and
Marine Terminal Operators
FMC Agreement No. _____

SIGNATURE PAGE CONT'D

APM TERMINALS PACIFIC LLC

FENIX MARINE SERVICES, LTD.

By:
Name:
Title:

By:
Name:
Title:

EVERPORT TERMINAL SERVICES, INC.

INTERNATIONAL TRANSPORTATION
SERVICE, LLC



By:
Name: GEORGE LANG
Title: PRESIDENT

By:
Name:
Title:

LBCT LLC

TOTAL TERMINALS INTERNATIONAL,
LLC

By:
Name:
Title:

By:
Name:
Title:

WEST BASIN CONTAINER TERMINAL
LLC

PACIFIC MARITIME SERVICES, L.L.C.

By:
Name:
Title:

By:
Name:
Title:

LEGAL\51848353\1

Agreement Between the City of Los Angeles,
the City of Long Beach, Portcheck, LLC, and
Marine Terminal Operators
FMC Agreement No. _____

SIGNATURE PAGE CONT'D

APM TERMINALS PACIFIC LLC

By:
Name:
Title:

FENIX MARINE SERVICES, LTD.

By:
Name:
Title:

EVERPORT TERMINAL SERVICES, INC.

By:
Name:
Title:

INTERNATIONAL TRANSPORTATION
SERVICE, LLC

By:
Name: *Christopher Rapp*
Title: *Vice President*

LBCT LLC

By:
Name:
Title:

TOTAL TERMINALS INTERNATIONAL,
LLC

By:
Name:
Title:

WEST BASIN CONTAINER TERMINAL
LLC

By:
Name:
Title:

PACIFIC MARITIME SERVICES, L.L.C.

By:
Name:
Title:

Agreement Between the City of Los Angeles,
the City of Long Beach, Portcheck, LLC, and
Marine Terminal Operators
FMC Agreement No. _____

SIGNATURE PAGE CONT'D

APM TERMINALS PACIFIC LLC

By:
Name:
Title:

FENIX MARINE SERVICES, LTD.

By:
Name:
Title:

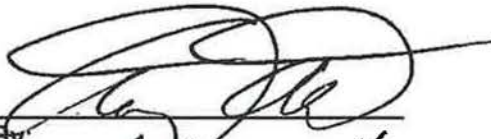
EVERPORT TERMINAL SERVICES, INC.

By:
Name:
Title:

INTERNATIONAL TRANSPORTATION
SERVICE, LLC

By:
Name:
Title:

LBCT LLC



By:
Name: Anthony Otto
Title: CEO

TOTAL TERMINALS INTERNATIONAL,
LLC

By:
Name:
Title:

WEST BASIN CONTAINER TERMINAL
LLC

By:
Name:
Title:

PACIFIC MARITIME SERVICES, L.L.C.

By:
Name:
Title:

Agreement Between the City of Los Angeles,
the City of Long Beach, Portcheck, LLC, and
Marine Terminal Operators
FMC Agreement No. _____

SIGNATURE PAGE CONT'D

APM TERMINALS PACIFIC LLC

FENIX MARINE SERVICES, LTD.

By:
Name:
Title:

By:
Name:
Title:

EVERPORT TERMINAL SERVICES, INC.

INTERNATIONAL TRANSPORTATION
SERVICE, LLC


By:
Name:
Title:

By:
Name:
Title:

LBCT LLC

TOTAL TERMINALS INTERNATIONAL,
LLC

By:
Name:
Title:

By: 
Name: Robert M. Johnson
Title: CCO

WEST BASIN CONTAINER TERMINAL
LLC

PACIFIC MARITIME SERVICES, L.L.C.

By:
Name:
Title:

By:
Name:
Title:

LEGAL\51848353\1

Agreement Between the City of Los Angeles,
the City of Long Beach, Portcheck, LLC, and
Marine Terminal Operators
FMC Agreement No. _____

SIGNATURE PAGE CONT'D

APM TERMINALS PACIFIC LLC

FENIX MARINE SERVICES, LTD.

By:
Name:
Title:

By:
Name:
Title:

EVERPORT TERMINAL SERVICES, INC.

INTERNATIONAL TRANSPORTATION
SERVICE, LLC

By:
Name:
Title:

By:
Name:
Title:

LBCT LLC

TOTAL TERMINALS INTERNATIONAL,
LLC

By:
Name:
Title:

By:
Name:
Title:

WEST BASIN CONTAINER TERMINAL
LLC ,

PACIFIC MARITIME SERVICES, L.L.C.

By: 
Name: Quenzer
Title: General Manager

By:
Name:
Title:

LEGAL\51848353\1

Agreement Between the City of Los Angeles,
the City of Long Beach, Portcheck, LLC, and
Marine Terminal Operators
FMC Agreement No. _____

SIGNATURE PAGE CONT'D

APM TERMINALS PACIFIC LLC

By:
Name:
Title:

FENIX MARINE SERVICES, LTD.

By:
Name:
Title:

EVERPORT TERMINAL SERVICES, INC.

By:
Name:
Title:

INTERNATIONAL TRANSPORTATION
SERVICE, LLC

By:
Name:
Title:

LBCT LLC

By:
Name:
Title:


TOTAL TERMINALS INTERNATIONAL,
LLC

By:
Name:
Title:

WEST BASIN CONTAINER TERMINAL
LLC

By:
Name:
Title:

PACIFIC MARITIME SERVICES, L.L.C.


By: 
Name: SAL FERRIGNO
Title: VP

LEGAL\51848353\1

Agreement Between the City of Los Angeles,
the City of Long Beach, Portcheck, LLC, and
Marine Terminal Operators
FMC Agreement No. _____

SIGNATURE PAGE CONT'D

SSAT (PIER A), LLC


By: _____
Name: SAL FERRIGNO
Title: VP


YUSEN TERMINALS LLC

By: _____
Name: _____
Title: _____

TRAPAC LLC

By: _____
Name: _____
Title: _____

SSA TERMINALS, LLC


By: _____
Name: SAL FERRIGNO
Title: VP

Agreement Between the City of Los Angeles,
the City of Long Beach, Portcheck, LLC, and
Marine Terminal Operators
FMC Agreement No. _____

SIGNATURE PAGE CONT'D

SSAT (PIER A), LLC

By:
Name:
Title:

YUSEN TERMINALS LLC

Sean Marron

Digitally signed by Sean
Marron
Date: 2021.04.21 10:53:03
-07'00'

By:
Name:
Title:

TRAPAC LLC

By:
Name:
Title:

SSA TERMINALS, LLC

By:
Name:
Title:

Agreement Between the City of Los Angeles,
the City of Long Beach, Portcheck, LLC, and
Marine Terminal Operators
FMC Agreement No. _____

SIGNATURE PAGE CONT'D


SSAT (PIER A), LLC

By:
Name:
Title:

YUSEN TERMINALS LLC

By:
Name:
Title:

TRAPAC LLC



By:
Name: *Steve Fresenius*
Title: *Assistant VP Corporate
Labor Relations*

SSA TERMINALS, LLC

By:
Name:
Title:

EXHIBITS

A – Marine Terminal Operators Names and Addresses (signatories to this Agreement)

B - Scope of Work

C - Development Costs Detailed Budget and Schedule

D – Operational Costs Detailed Budget

E – Vendor Insurance Requirements (for both Ports)

F - Los Angeles Exhibits

F-1: POLA Invoice Procedure

F-2: Affirmative Action and ADA

F-3: Very Small Business Program/
Local Business Preference Program

F-4: Other City Of Los Angeles Provisions

F-5: Equal Benefits Ordinance

G – Long Beach Exhibits

G-1: Development Costs Invoice Sample

G-2: Operations Costs Invoice Sample

G-3: Expenses Under Review Worksheet Sample

G-4: Small Business Enterprise Program

H – Drayage Truck Registry Service Levels

EXHIBIT A – MARINE TERMINAL OPERATORS

SIGNATORIES TO THIS AGREEMENT

NAMES AND ADDRESSES

APM TERMINALS PACIFIC LLC
2500 Navy Way
Terminal Island, CA 90731

FENIX MARINE SERVICES, LTD.
6263 N. Scottsdale Road, Suite 320
Scottsdale, AZ 85250

EVERPORT TERMINAL SERVICES, INC.
389 Terminal Way
Terminal Island, CA 90731

INTERNATIONAL TRANSPORTATION SERVICE, LLC
1281 Pier G Way
Long Beach, CA 90802-6353

LBCT LLC dba LONG BEACH CONTAINER TERMINAL LLC
1171 Pier F Avenue
Long Beach, CA 90802

TOTAL TERMINALS INTERNATIONAL, LLC
301 Mediterranean Way
Long Beach, CA 90802

WEST BASIN CONTAINER TERMINAL LLC
111 West Ocean Blvd., Suite 1610
Long Beach, CA 90802

PACIFIC MARITIME SERVICES, L.L.C.
1131 SW Klickitat Way
Seattle, WA 98134

SSAT (PIER A), LLC
1131 SW Klickitat Way
Seattle, WA 98134

Agreement Between the City of Los Angeles,
the City of Long Beach, Portcheck, LLC, and
Marine Terminal Operators
FMC Agreement No. _____
Original Page No. A-2

TRAPAC LLC
630 West Harry Bridges Boulevard
Wilmington, CA 90744

YUSEN TERMINALS LLC
701 New Dock Street
Terminal Island, CA 90731

SSA TERMINALS, LLC
1131 SW Klickitat Way
Seattle, WA 98134

Exhibit B
CLEAN TRUCK RATE COLLECTION MECHANISM SERVICES
SCOPE OF WORK

Capitalized Terms used in this Exhibit B to the Agreement ("Agreement") between the City of Los Angeles, the City of Long Beach, PortCheck LLC and Marine Terminal Operators, shall have the meanings as defined in the Agreement.

Vendor shall perform its Agreement responsibilities in accordance with this scope of work and the Tariffs. Pursuant to Agreement Section 1F, the Ports have sole authority to set the CTF Rate amount with applicable exemptions and conditions for access to the Ports' terminals in their respective Tariffs, resolutions and otherwise.

Work under this Agreement shall be divided into two distinct phases: (1) Developmental Phase and (2) Operational Phase. The Ports shall provide a separate written Notice to Proceed (NTP) to authorize Vendor to commence the work of these two Phases as stated in each Phase scope of work below.

I. Developmental Phase:

The Ports shall provide a written NTP to Vendor to authorize beginning the Developmental Phase upon full execution of this Agreement. During the Developmental Phase of this work, Vendor shall work to establish and prepare the Clean Truck Rate Collection System per the requirements detailed below, according to the cost and schedule in Exhibit C.

A. Collection System Requirements:

Vendor shall develop the Collection System and procedures that must be able to perform the following minimum requirements:

1. Rate shall be applied to all loaded cargo containers that enter or exit a POLA or POLB marine terminal by non-exempt truck.¹ The Rate shall not be applied to empty containers or bare chassis without loaded cargo.
2. Collection System shall charge the Rate in both import and export gate scenarios: trucks bringing cargo containers into a terminal or trucks picking up cargo containers and departing a terminal for inland delivery.

¹ "Exempt" trucks shall be defined by the Ports under the Tariffs. For Vendor planning purposes, it is anticipated that Exempt trucks are likely to be heavy duty trucks that meet the zero emissions and near-zero emissions manufacturing standards adopted and certified by CARB or the US EPA.

3. The Rate shall be collected from the cargo's BCO or a BCO-authorized agent. Rate shall be authorized against a chargecard or authorized against an electronic check, or funds shall be encumbered/debited against the payer's established credit account, Collection System shall establish electronic credit and debit transaction capability with appropriate financial institutions and BCOs and/or their agents.
4. Vendor shall send electronic confirmation to Marine Terminal Operator that cargo moving by trucks through terminal gates has satisfied the Rate requirement, and may be released. This Vendor confirmation shall be based on either cargo movement by exempt truck or that Vendor has collected/encumbered the applicable Rate for non-exempt trucks. MTO measures shall be in place to preclude cargo from being moved through terminal gates that lack this Vendor confirmation.
5. Collection System shall accommodate multiple rate levels based on the "category" of vehicle. The system shall be able to accommodate at least 10 rates.
6. Collection System shall provide the ability to easily increase or decrease each of the rate levels individually as needed over time.
7. Collection System shall, in a timely manner, process the Rate transactions and complete the chargecard authorization and settlement process or invoice the payers with established credit. System shall in a timely manner allow for adjustments to the Rate level if the vehicle that actually moves the cargo is different from the vehicle reported by the MTO.
8. Vendor shall provide customer service to the gate transaction parties, MTOs and users of the Collection System, on Non-Holiday weekdays from 6:00 AM to 6:00 PM and be able to acknowledge trouble tickets within 30 minutes of notification.
9. Vendor shall develop its reasonable Rate Collection Procedures per Agreement Section 1E, submit to the Ports for approval no later than 30 days prior to the commencement of Rate collection in Phase II Operations, and obtain Ports' prior consent to any material changes.
10. User interface shall be developed in cooperation with Ports' staff. System shall, at minimum, incorporate state of the art data processing features and functionality that allow users to easily work with multiple shipments and

multiple different locations. Ports' staff will work with the Vendor for screen designs and workflows during the development phase of the project.

11. System must be available 24 hours a day, every day of the year, except for scheduled maintenance periods during low activity times. Scheduled maintenance periods will be clearly advertised in advance and be communicated via email to users at least 3 days before the period. The system must achieve 99.95% full system availability during non-maintenance periods. Additionally, the provider must be able to respond to errors according to the following timelines:

- a. Level 1 Errors (system unavailable to all users) - Begin professional resolution efforts within 1 hour of receiving error notification. Summary of efforts must be e-mailed every 2 hours detailing issues and attempts at resolution.
- b. Level 2 Errors (system is experiencing updating or processing errors, reporting capabilities not working properly, but the system is substantially usable and available to all users) - Begin professional resolution efforts within 4 hours of receiving error notification. Summary of efforts must be e-mailed every 4 hours detailing issues and attempts at resolution.
- c. Level 3 Errors (system is exhibiting minor field or page display errors, but the system is substantially usable and available to all users) - Begin professional resolution efforts within 8 business hours of receiving error notification. Summary of efforts must be emailed every 8 business hours detailing issues and attempts at resolution.

B. Vendor Reports and Invoices

Vendor shall submit detailed progress reports on the various Collection System components with its invoices for reimbursement of authorized cost reimbursement in accordance with Agreement Section 5D and Exhibit C – Development Costs Detailed Budget and Schedule.

II. Operational Phase:

A. Staff Hiring, Training and Final Preparations

The Ports will provide a second written NTP to inform Vendor of the operational start date for Vendor to start collecting the Clean Truck Rate. This second notice shall be

provided no later than 60 days before the Rate Collection start date, and will authorize Vendor to begin final staffing, training for the performance of operations services in accordance with Section 2B below, and other preparations for the start of the Operations phase.

Invoices for this preparatory work shall be processed similarly to the Developmental Costs reimbursement for authorized costs reimbursement paid by the Ports following approval, pursuant to Agreement 5.D.1 and Exhibits F & G. The integrated revenue remittance and invoice payment process of Agreement Section 5D.2. shall not apply, due to lack of operations revenue during the preparatory work.

Vendor will notify the Ports 30 days prior to the operational start date stated in the second NTP, of the date when Vendor expects these final staffing preparations will be complete. No later than 7 days prior to the noticed operational start date, Vendor shall confirm readiness to timely commence the Rate collection, or advise of any concerns and a recommended revised date.

The Ports will confirm via a third written NTP the final Rate Collection start date, in accordance with Vendor's confirmation of readiness to commence collections, and authorize the commencement of the Operational phase of this project. Effective on the noticed commencement date in the 3rd NTP, Vendor shall operate System to collect the Clean Truck Rate as detailed in the Tariffs and this scope of work.

B. Rate Collection, Credit-debit-encumbrance and Customer Service.

1. Rate Collection Process

- Vendor shall develop its reasonable Rate Collection Procedures per Agreement Section 1E, submit to the Ports for approval no later than 30 days prior to the commencement of Rate collection in Phase II Operational Phase, and obtain Ports' prior consent to any material changes.
- Vendor shall operate System to collect the Clean Truck Rate as detailed in the Tariffs, this scope of work, and the Rate Collection Procedures as consented to by the Ports.

2. Credit-debit-encumbrance of BCO accounts for payment

The Rate shall be collected from the cargo's BCO or a BCO-authorized agent. Rate shall be authorized against an on-file chargecard or funds shall be encumbered/debited against the payer's established credit account, prior to each terminal gate transaction. Collection System shall establish electronic credit and debit transaction capability with appropriate financial institutions and payers. Vendor shall, in a timely manner, process the Rate

transactions and complete the chargecard authorization and settlement process or invoice the payers with established credit. System shall in a timely manner allow for adjustments to the Rate level if the vehicle that actually moves the cargo is different from the vehicle reported by the MTO.

3. Customer Service

- Vendor shall provide customer service to the gate transaction parties, MTOs and users of the Collection System, on Non-Holiday weekdays from 6:00 AM to 6:00 PM and be able to acknowledge receipt of trouble tickets within 30 minutes of notification.

C. Vendor's Remittance of Collected Rate Revenues, Reports and Invoices

Vendor shall remit to the Ports the revenues from their Rate collections in a manner approved by the Ports. The Ports have agreed to an integrated revenue remittance and invoice payment process set forth in Agreement Section 5.D. The integrated submittal package deliverables below apply to the Vendor's integrated revenue remittance and invoice payment procedure.

1. Vendor's Integrated Submittal Package

As set forth in the Agreement, Section 5.D, Vendor shall submit to each Port an Integrated Revenue Remittance and Invoice Payment Submittal Package containing the items listed here (Integrated Package) for each month of Operational Phase by the 5th business day of the next calendar month.

Each Integrated Package shall review the previous month of operations and will include, at a minimum

- a. Proposed Summary Invoice: setting forth the details of authorized charges including monthly operating costs incurred, in accordance with Exhibits F & G; and
- b. Clean Truck Rate Collection Data:

As part of each package submitted by Vendor during the Operational Phase of this agreement, Vendor shall include electronic data reports to each respective Port of the Rate Collection activity at that Port's terminals. These Excel-based detailed reports shall include, at a minimum, the following:

- Total loaded container moves per gate, by each Rate

- Total Transactions
- Rate Collections System Availability (uptime and outage details)
- The following data shall be provided per each activity recorded in the previous month:
 - Terminal ID
 - Move Date/Time of each interaction
 - Container Status (Import vs Export)
 - Container Size
 - Full/Empty Status
 - In/Out Gate
 - Motor Carrier
 - RFID
 - Plate Number / State

Technical Changes to this Exhibit

Changes of a technical nature that do not increase the overall compensation under this agreement or extend the duration of the agreement may be made to any of these specifications or schedules by joint decision of the Ports' Executive Directors with Vendor's consent. Such changes will be provided by written notice from both Ports to Vendor, and will become effective no less than 30 days following Vendor's written acknowledgment and concurrence with the changes.

PortCheck - Exhibit C

Agreement Between the City of Los Angeles,
the City of Long Beach, Portcheck, LLC, and
Marine Terminal Operators
FMC Agreement No. _____
Original Page No. C-1

Clean Trucks Program Rate Collection Services - Development Costs Detailed Budget and Schedule

Task Name	Anticipated Cost	Expected Start Month	Expected Completion Month	Month 1	Month 2	Month 3	Month 4	Month 5	Month 6	Month 7	Total
Project Planning, Requirements, High Level Design	\$ 14,400	1	1	\$ 14,400							\$ 14,400
UI/UX Upgrade:											
Framework/Control Library	\$ 4,768	1	1	\$ 4,768							\$ 4,768
CSR Screens	\$ 78,672	1	4	\$ 19,668	\$ 19,668	\$ 19,668	\$ 19,668				\$ 78,672
DTR Screens	\$ 4,768	1	1	\$ 4,768							\$ 4,768
Account Screens	\$ 64,368	3	5			\$ 21,456	\$ 21,456	\$ 21,456			\$ 64,368
EDI Screens	\$ 46,488	5	7					\$ 15,496	\$ 15,496	\$ 15,496	\$ 46,488
Import Screens	\$ 42,912	2	4		\$ 14,304	\$ 14,304	\$ 14,304				\$ 42,912
Export Screens	\$ 42,912	2	4		\$ 14,304	\$ 14,304	\$ 14,304				\$ 42,912
Report UI	\$ 9,536	5	7					\$ 3,179	\$ 3,179	\$ 3,179	\$ 9,536
CTF Business Logic (MT)	\$ 17,880	4	7				\$ 4,470	\$ 4,470	\$ 4,470	\$ 4,470	\$ 17,880
CTF EDI / Biztalk	\$ 23,840	4	7				\$ 5,960	\$ 5,960	\$ 5,960	\$ 5,960	\$ 23,840
CTF Reports	\$ 14,900	4	7				\$ 3,725	\$ 3,725	\$ 3,725	\$ 3,725	\$ 14,900
Infrastructure Build (Network/Security):											
Infrastructure Configuration (VM/OS)	\$ 2,800	7	7							\$ 2,800	\$ 2,800
System/Application Config	\$ 2,800	7	7							\$ 2,800	\$ 2,800
Added DEV/QA - Imp/Config	\$ 31,200	6	7						\$ 15,600	\$ 15,600	\$ 31,200
Marvel App/Screen-Clickable Prototype	\$ 30,000	1	1	\$ 30,000							\$ 30,000
Total Subcontractor - OBE	\$ 432,244			\$ 73,604	\$ 48,276	\$ 69,732	\$ 83,887	\$ 54,286	\$ 48,430	\$ 54,030	\$ 432,244

Task Name	Anticipated Cost	Expected Start	Expected Completion	Month 1	Month 2	Month 3	Month 4	Month 5	Month 6	Month 7	Total
Database Setup	\$ 5,151	3	4			\$ 2,575	\$ 2,575				\$ 5,151
Transaction Codes	\$ 2,060	4	4				\$ 2,060				\$ 2,060
Task Review/Setup	\$ 3,090	3	4				\$ 1,545	\$ 1,545			\$ 3,090
User Screen Modifications	\$ 5,151	4	5				\$ 2,575	\$ 2,575			\$ 5,151
Interface Review/Testing	\$ 2,060	5	5					\$ 2,060			\$ 2,060
Refund Processing Setup	\$ 3,090	5	5					\$ 3,090			\$ 3,090
Payment Processing Setup (New Merchant IDs)	\$ 5,151	5	6					\$ 2,575	\$ 2,575		\$ 5,151
Jasper Reports	\$ 16,985	5	7					\$ 5,662	\$ 5,662	\$ 5,662	\$ 16,985
Letters/Invoices	\$ 2,447	6	6						\$ 2,447		\$ 2,447
New Account Creation from Website	\$ 3,090	6	6						\$ 3,090		\$ 3,090
System 3 - Unclaimed Acct	\$ 1,030	7	7							\$ 1,030	\$ 1,030
Copy Active TMF accounts to Start	\$ 11,332	6	7						\$ 5,666	\$ 5,666	\$ 11,332
Management/Admin	\$ 43,224	1	7	\$ 7,360	\$ 4,828	\$ 6,973	\$ 8,389	\$ 5,429	\$ 4,843	\$ 5,403	\$ 43,224
Hardware and software purchases/services	\$ 41,586	6	6						\$ 41,586		\$ 41,586
Staff Training	\$ 17,562	7	7							\$ 17,562	\$ 17,562
Total Subcontractor - SBE	\$ 163,010			\$ 7,360	\$ 4,828	\$ 9,549	\$ 17,145	\$ 22,937	\$ 65,869	\$ 35,323	\$ 163,010

Task Name	Anticipated Cost	Expected Start	Expected Completion	Month 1	Month 2	Month 3	Month 4	Month 5	Month 6	Month 7	Total
Credit Card & Telecheck Set Up	\$ 500	6	7							\$ 500	\$ 500
Bank Fees	\$ 1,100	1	7	\$ 157	\$ 157	\$ 157	\$ 157	\$ 157	\$ 157	\$ 157	\$ 1,100
Legal Expenses	\$ 40,000	1	7	\$ 5,714	\$ 5,714	\$ 5,714	\$ 5,714	\$ 5,714	\$ 5,714	\$ 5,714	\$ 40,000
Auditing & Tax Services	\$ 10,000	4	5				\$ 5,000	\$ 5,000			\$ 10,000
Portcheck Labor Setup/Training	\$ 11,502	7	7							\$ 11,502	\$ 11,502
Information Technology	\$ 1,100	1	7	\$ 157	\$ 157	\$ 157	\$ 157	\$ 157	\$ 157	\$ 157	\$ 1,100
Taxes & Licenses	\$ 800	5	5					\$ 800			\$ 800
G&A Multiplier (3%)	\$ 57	1	7	\$ 5	\$ 5	\$ 5	\$ 5	\$ 29	\$ 5	\$ 5	\$ 57
Profit Multiplier on PC Labor (3%)	\$ 345	7	7							\$ 345	\$ 345
Subcontractor Oversight (10%)	\$ 59,525	1	7	\$ 8,096	\$ 5,310	\$ 7,928	\$ 10,103	\$ 7,722	\$ 11,430	\$ 8,935	\$ 59,525
Total Contractor	\$ 124,929			\$ 14,130	\$ 11,344	\$ 13,961	\$ 21,136	\$ 19,580	\$ 17,463	\$ 27,316	\$ 124,929
Contingency (10%)	\$ 72,018										\$ 72,018
GRAND TOTAL	\$ 792,201			\$ 95,094	\$ 64,447	\$ 93,242	\$ 122,169	\$ 96,802	\$ 131,762	\$ 116,668	\$ 792,202

Clean Trucks Program Rate Collection Services - Development Costs Detailed Budget and Schedule

Summary:	
System Build & Testing	\$ 492,882
Purchases/Services	\$ 41,586
Staff Training	\$ 29,064
Banking & Credit Card	\$ 1,600
Professional Services	\$ 50,000
G&A	\$ 45,124
Profit & Oversight	\$ 59,927
Contingency	\$ 72,018
Total	\$ 792,201

PortCheck - Exhibit D

Agreement Between the City of Los Angeles,
the City of Long Beach, Portcheck, LLC, and
Marine Terminal Operators
FMC Agreement No. _____
Original Page No. D-1

Clean Trucks Program Rate Collection Services - Operational Costs Detailed Budget

	Year 1 2022	Year 2 2023	Year 3 2024 (6 mos)	Grand Total
1. Variable Expenses by Port				
1.a Credit Card & Telecheck Fees	\$ 1,481,183	\$ 1,586,643	\$ 849,806	\$ 3,917,632
1.b Bank Fees	\$ 16,207	\$ 17,361	\$ 9,298	\$ 42,865
1.c Bad Debt Expense	\$ 32,090	\$ 33,373	\$ 17,354	\$ 82,817
1.d Total Sales Expenses	\$ 1,529,479	\$ 1,637,377	\$ 876,459	\$ 4,043,315
2. Equally Shared Expenses				
2.a Professional Services				
2.a.1 Legal Expenses	\$ 36,050	\$ 37,130	\$ 19,125	\$ 92,305
2.a.2 Auditing and Tax Services	\$ 27,583	\$ 28,410	\$ 29,262	\$ 85,255
2.a. Total Professional Services	\$ 63,633	\$ 65,540	\$ 48,387	\$ 177,560
2.b Subcontractor Expenses - SBE				
2.b.1 Subcontractor expenses - SBE	\$ 122,521	\$ 126,200	\$ 64,995	\$ 313,716
2.b.2 Equipment & Services - SBE	\$ 45,662	\$ 47,030	\$ 24,220	\$ 116,912
2.b. Total Subcontractor Expenses - SBE	\$ 168,183	\$ 173,230	\$ 89,215	\$ 430,628
2.c Subcontractor expenses - OBE	\$ 252,087	\$ 504,173	\$ 504,173	\$ 1,260,433
2.d Total Subcontractor Expenses	\$ 420,270	\$ 677,403	\$ 593,388	\$ 1,691,061
2.e PortCheck Labor	\$ 369,680	\$ 380,770	\$ 196,100	\$ 946,550
2.f General & Administrative				
2.f.1 Information Technology	\$ 6,180	\$ 6,365	\$ 3,280	\$ 15,825
2.f.2 Insurance	\$ 56,650	\$ 59,500	\$ 31,240	\$ 147,390
2.f.3 Office	\$ 12,360	\$ 12,730	\$ 6,555	\$ 31,645
2.f.4 Taxes and Licenses	\$ 13,300	\$ 13,300	\$ 6,650	\$ 33,250
2.f. Total General & Administrative	\$ 88,490	\$ 91,895	\$ 47,725	\$ 228,110
2.g Total Expenses before Profit & Oversight	\$ 2,471,552	\$ 2,852,985	\$ 1,762,059	\$ 7,086,595
2.h Profit & Oversight				
2.h.1 General & Administrative Multiplier (3% of 2.f.5)	\$ 2,655	\$ 2,757	\$ 1,432	\$ 6,843
2.h.2 Profit Multiplier on PortCheck Labor (3% of 2.e)	\$ 11,090	\$ 11,423	\$ 5,883	\$ 28,397
2.h.3 Subcontractor Oversight (10% of 2.c)	\$ 42,027	\$ 67,740	\$ 59,339	\$ 169,106
2.h. Total Profit & Oversight	\$ 55,772	\$ 81,920	\$ 66,654	\$ 204,346
Contingency (10% of 2.g + 2.h.4)	\$ 252,732	\$ 293,491	\$ 182,871	\$ 729,094
Grand Total Expenses	\$ 2,780,056	\$ 3,228,396	\$ 2,011,583	\$ 8,020,035
Assumed number of transactions	6,016,256	6,256,906	3,253,591	15,526,753

Assumptions:

- 1) Estimated costs based on an assumed volume of 10,829,260 TEU subject to the CTF in Year 1 (2022), at a rate of \$10 per TEU for both ports combined. Thereafter, assuming a 4% increase in TEU volume each year.
- 2) Costs are based on customer service from 6AM - 6PM Pacific Time.
- 3) No "wind down" expenses are included in this budget.

EXHIBIT E – VENDOR INSURANCE REQUIREMENTS (FOR BOTH PORTS)

I. POLA INSURANCE (City of Los Angeles)

Vendor shall comply with these insurance requirements of the City of Los Angeles:

A. In addition to and not as a substitute for, or limitation of, any of the indemnity obligations imposed by Article 8 - Indemnity, Vendor shall procure and maintain and keep in force at all times during the operational phase of this Agreement (i.e., beginning with the issuance of a notice to proceed) the following insurance, for which it will be compensated in accordance with Exhibit D to the Agreement:

(1) Commercial General Liability Insurance

Commercial general liability insurance covering personal and advertising injury, bodily injury, and property damage providing contractual liability, independent contractors, products and completed operations, and premises/operations coverage written by an insurance company authorized to do business in the State of California rated VII, A- or better in Best's Insurance Guide (or an alternate guide acceptable to City if Best's is not available) within Vendor's normal limits of liability but not less than One Million Dollars (\$1,000,000) combined single limit for injury or claim. Where Vendor provides or dispenses alcoholic beverages, Host Liquor Liability coverage shall be provided as above. Where Vendor provides pyrotechnics, Pyrotechnics Liability shall be provided as above. Said limits shall provide first dollar coverage except that Executive Director may permit a self-insured retention or self-insurance in those cases where, in his or her judgment, such retention or self-insurance is justified by the net worth of Vendor. The retention or self-insurance provided shall provide that any other insurance maintained by the Harbor Department shall be excess of Vendor's insurance and shall not contribute to it. In all cases, regardless of any deductible or retention, said insurance shall contain a defense of suits provision and a severability of interest clause. Each policy shall name the City of Los Angeles Harbor Department, its officers, agents and employees as Primary additional insureds.

(2) Automobile Liability Insurance

Automobile liability insurance written by an insurance company authorized to do business in the State of California rated VII, A- or better in Best's Insurance Guide (or an alternate guide acceptable to City if Best's is not available) within Vendor's normal limits of liability but not less than One Million Dollars (\$1,000,000) covering damages, injuries or death resulting from each accident or claim arising out of any one claim or accident. Said insurance shall protect against claims arising from actions or operations of the insured, or by its employees. Coverage shall contain a defense of suits provision and a severability

of interest clause. Each policy shall name the City of Los Angeles Harbor Department, its officers, agents and employees as Primary additional insureds.

(3) Workers' Compensation and Employer's Liability

Vendor shall certify that it is aware of the provisions of Section 3700 of the California Labor code which requires every employer to be insured against liability for Workers' Compensation or to undertake self-insurance in accordance with the provisions of that Code, and that Vendor shall comply with such provisions before commencing the performance of the tasks under this Agreement. Coverage for claims under U.S. Longshore and Harbor Workers' Compensation Act, if required under applicable law, shall be included. Vendor shall submit Workers' Compensation policies whether underwritten by the state insurance fund or private carrier, which provide that the public or private carrier waives its right of subrogation against the City in any circumstance in which it is alleged that actions or omissions of the City contributed to the accident. Such Worker's Compensation and occupational disease requirements shall include coverage for all employees of Vendor, and for all employees of any subcontractor or other vendor retained by Vendor.

B. Insurance Procured by Vendor on Behalf of City

In addition to and not as a substitute for, or limitation of, any of the indemnity obligations imposed by Article 9, and where Vendor is required to name the City of Los Angeles Harbor Department, its officers, agents and employees as Primary additional insureds on any insurance policy required by this Agreement, Vendor shall cause City to be named as an additional insured on all policies it procures in connection with this provision. Vendor shall cause such additional insured status to be reflected in the original policy or by additional insured endorsement (CG 2010 or equivalent) substantially as follows:

"Notwithstanding any inconsistent statement in the policy to which this endorsement is attached, or any endorsement or certificate now or hereafter attached hereto, it is agreed that City of Los Angeles, Los Angeles Board of Harbor Commissioners, their officers, agents and employees, are additional insureds hereunder, and that coverage is provided for all contractual obligations, operations, uses, occupations, acts and activities of the insured under Agreement No. ___, and under any amendments, modifications, extensions or renewals of said Agreement regardless of where such contractual obligations, operations, uses, occupations, acts and activities occur.

"The policy to which this endorsement is attached shall provide a 10-days notice of cancellation for nonpayment of premium, and a 30-days notice of cancellation for any other reasons to the Risk Manager.

"The coverage provided by the policy to which this endorsement is attached is primary coverage and any other insurance carried by City of Los Angeles is excess coverage;

"In the event of one of the named insured's incurring liability to any other of the named insureds, this policy shall provide protection for each named insured against whom claim is or may be made, including claims by other named insureds, in the same manner as if separate policies had been issued to each named insured. Nothing contained herein shall operate to increase the company's limit of liability; and

"Notice of occurrences or claims under the policy shall be made to the Risk Manager of the Los Angeles Harbor Department with copies to the City Attorney's Office."

C. Required Features of Coverages

Insurance procured by Vendor in connection with this provision shall include the following features:

(1) Acceptable Evidence and Approval of Insurance

Electronic submission is the required method of submitting Vendor's insurance documents. Vendor's insurance broker or agent shall register with the City's online insurance compliance system **KwikComply** at <https://kwikcomply.org/> and submit the appropriate proof of insurance on Vendor's behalf.

Upon request by City, Vendor shall furnish a copy of the binder of insurance and/or a full certified policy for any insurance policy required herein. This obligation is intended to, and shall, survive the expiration or earlier termination of this Agreement.

(2) Carrier Requirements

All insurance which Vendor is required to provide pursuant to this Agreement shall be placed with insurance carriers authorized to do business in the State of California and which are rated A-, VII or better in Best's Insurance Guide. Carriers without a Best's rating shall meet comparable standards in another rating service acceptable to City.

(3) Notice of Cancellation

For each insurance policy described above, Vendor shall give a 10-day prior notice of cancellation or reduction in coverage for nonpayment of premium, and a 30-day prior notice of cancellation or reduction in coverage for any other reason, by written notice via registered mail and addressed to the City of Los Angeles Harbor Department,

Attn: Risk Manager and the City Attorney's Office, 425 S. Palos Verdes Street, San Pedro, California 90731.

(4) Modification of Coverage

Executive Director, at his or her sole reasonable discretion, based upon recommendation of independent insurance consultants to City, may increase or decrease amounts and types of insurance coverage required hereunder at any time during the term hereof by giving ninety (90) days' prior written notice to Vendor.

(5) Renewal of Policies

At least thirty (30) days prior to the expiration of any policy required by this Agreement, Vendor shall renew or extend such policy in accordance with the requirements of this Agreement and direct their insurance broker or agent to submit to the City's online insurance compliance system **KwikComply** at <https://kwikcomply.org/> a renewal endorsement or renewal certificate or, if new insurance has been obtained, evidence of insurance as specified above. If Vendor neglects or fails to secure or maintain the insurance required above, Executive Director may, at his or her own option but without any obligation, obtain such insurance to protect City's interests. The cost of such insurance shall be deducted from the next payment due Vendor.

(6) Limits of Coverage

If Vendor maintains higher limits than the minimums required by this Agreement, City requires and shall be entitled to coverage for the higher limits maintained by Vendor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to City.

D. Right to Self-Insure

Upon written approval by the Executive Director, Vendor may self-insure if the following conditions are met:

1. Vendor has a formal self-insurance program in place prior to execution of this Agreement. If a corporation, Vendor must have a formal resolution of its board of directors authorizing self-insurance.
2. Vendor agrees to protect the City, its boards, officers, agents and employees at the same level as would be provided by full insurance with respect to types of coverage and minimum limits of liability required by this Agreement.

3. Vendor agrees to defend the City, its boards, officers, agents and employees in any lawsuit that would otherwise be defended by an insurance carrier.
4. Vendor agrees that any insurance carried by Department is excess of Vendor's self-insurance and will not contribute to it.
5. Vendor provides the name and address of its claims administrator.
6. Vendor submits its most recently filed 10-Q and its 10-K or audited annual financial statements for the three most recent fiscal years prior to Executive Director's consideration of approval of self-insurance and annually thereafter.
7. Vendor agrees to inform Department in writing immediately of any change in its status or policy which would materially affect the protection afforded Department by this self-insurance.
8. Vendor has complied with all laws pertaining to self-insurance.

E. Accident Reports

Vendor shall report in writing to Executive Director within fifteen (15) calendar days after it, its officers or managing agents have knowledge of any accident or occurrence involving death of or injury to any person or persons, or damage in excess of Five Hundred Dollars (\$500.00) to property, occurring upon the premises, or elsewhere within the Port of Los Angeles if Vendor's officers, agents or employees are involved in such an accident or occurrence. Such report shall contain to the extent available (1) the name and address of the persons involved, (2) a general statement as to the nature and extent of injury or damage, (3) the date and hour of occurrence, (4) the names and addresses of known witnesses, and (5) such other information as may be known to Vendor, its officers or managing agents.

II. POLB Insurance Requirements (City of Long Beach, Harbor Department)

As a condition precedent to the effectiveness of this contract, Consultant shall procure and maintain in full force and effect during the term of this contract the types and levels of insurance described below.

The required insurance and the documents provided as evidence thereof shall be in the name of Consultant as indicated on this contract.

If policies are written with aggregate limits, the aggregate limit shall be at least twice the occurrence limits or as specified below.

Excess or umbrella policies, if used, shall be following form and shall provide coverage that is equal to or broader than the underlying coverage.

Commercial General Liability:

Commercial General Liability insurance shall be provided on Insurance Services Office (ISO) CGL Form No. CG 00 01 or the equivalent, including provisions for defense of additional insureds and defense costs in addition to limits.

Policy limits shall be no less than one million dollars (\$1,000,000) per occurrence for all coverage provided and two million dollars (\$2,000,000) general aggregate.

Coverage shall be included on behalf of the insured for claims arising out of the actions of independent contractors.

The policy shall contain no provisions or endorsements limiting coverage for contractual liability or third party over action claims.

Defense costs shall be in addition to limits.

The policy must include work performed "by or on behalf" of the Consultant.

Coverage shall apply on a primary non-contributing basis in relation to any other insurance or self-insurance, primary or excess, available to City or any employee or agent of City.

Coverage shall not be limited to the vicarious liability or supervisory role of any additional insured.

Coverage shall not exclude contractual liability, restrict coverage to the sole liability of Consultant or contain any other exclusion contrary to this contract.

If this coverage is written on a claims-made basis, the retroactive date shall precede the effective date of this contract with the City, and continuous coverage will be maintained or an extended reporting period will be exercised for a period of at least three (3) years from the termination or expiration of this contract.

Cancellation: The policy shall not be cancelled or the coverage reduced by endorsement unless agreed to in writing by the Chief Executive of the Harbor. Consultant agrees to provide written

notice as required by this paragraph within 24 hours of initiating cancellation or receiving notice of cancellation from its insurer, insurance broker, or insurance agent.

The policy of insurance shall be endorsed as follows:

Additional Insured: The City of Long Beach, its Board of Harbor Commissioners, employees and agents shall be added as additional insured with regard to liability and defense of suits or claims arising from the operations and activities performed by or on behalf of the Named Insured using ISO Form CG 20 10 (2004) or its equivalent.

Additional Insured endorsements shall not: 1) exclude "Contractual Liability", 2) restrict coverage to the sole liability of the contractor, or 3) contain any other exclusion contrary to this contract.

Business Automobile Insurance:

Automobile Liability Insurance shall be written on ISO Business Auto Coverage Form CA 00 01 or the equivalent, including symbol (1) (any Auto).

Limit shall be no less than one million dollars (\$1,000,000) combined single limit per accident.

Coverage shall apply on a primary non-contributing basis in relation to any other insurance or self-insurance, primary or excess, available to City or any employee or agent of City.

Defense costs shall be in addition to limits.

If Consultant does not own any vehicles, this requirement may be satisfied by a nonowned vehicle endorsement to the general and umbrella liability policies provided that a separate policy limit is provided for this coverage as required by this contract.

Cancellation: The policy shall not be cancelled or the coverage reduced by endorsement unless agreed to in writing by the City. Consultant agrees to provide written notice as required by this paragraph within 24 hours of initiating cancellation or receiving notice of cancellation from its insurer, insurance broker, or insurance agent.

The policy of insurance required above shall be endorsed as follows:

Additional Insured: The City of Long Beach, its Board of Harbor Commissioners, employees and agents shall be added as additional insured with regard to liability and defense of suits or claims arising from the operations and activities performed by or on behalf of the Named Insured.

Additional Insured endorsements shall not: 1) be limited to "on-going operations", 2) exclude "Contractual Liability", 3) restrict coverage to the sole liability of the contractor, or 4) contain any other exclusion contrary to this contract.

Workers' Compensation:

Workers' Compensation Insurance, as required by the State of California, and Employer's Liability Insurance with a limit of not less than one million dollars (\$1,000,000) per accident for bodily injury and disease.

Cancellation: The policy shall not be cancelled or the coverage reduced by endorsement unless agreed to in writing by the Chief Executive of the Harbor. Consultant agrees to provide written notice as required by this paragraph within 24 hours of initiating cancellation or receiving notice of cancellation from its insurer, insurance broker, or insurance agent.

The policy of insurance required above shall be endorsed as follows:

Waiver of Subrogation: A waiver of subrogation stating that the insurer waives all rights of subrogation against the City, its Board of Harbor Commissioners, employees and agents.

Professional Liability Insurance:

Professional Liability Insurance with minimum limits of one million dollars (\$1,000,000). Covered Professional Services shall specifically include all work to be performed under the Contract and delete any exclusion that may potentially affect the work to be performed under the Contract.

If this coverage is written on a claims-made basis, the retroactive date shall precede the effective date of the Contract with the Port and continuous coverage will be maintained or an extended reporting period will be exercised for a period of at least three (3) years from the termination or expiration of this Contract.

Cancellation: The policy shall not be cancelled or the coverage reduced by endorsement unless agreed to in writing by the Chief Executive of the Harbor. Consultant agrees to provide written notice as required by this paragraph within 24 hours of initiating cancellation or receiving notice of cancellation from its insurer, insurance broker, or insurance agent.

Deductible/Self-Insured Retention:

Any deductible or self-insured retention must be approved in writing by the Chief Executive Officer and shall protect the City, its Board of Harbor Commissioners, agents and employees in the same manner and to the same extent as they would have been protected had the policy or

policies not contained a deductible or selfinsured retention. Any deductible or self-insured retention must be approved in writing in accordance with City insurance guidelines.

Evidence of Insurance:

The Consultant, concurrently with the execution of this contract, and as a condition precedent to the effectiveness of this contract, shall deliver either endorsements on forms approved by the City of Long Beach acting by and through its Board of Harbor Commissioners ("Evidence of Insurance") or certified copies of the required policies containing the terms and conditions required by this contract to the Chief Executive for approval as to sufficiency and to the City Attorney or approval as to form.

At least fifteen (15) days prior to the expiration of any such policy, evidence of insurance showing that such insurance has been renewed or extended shall be filed with the Chief Executive Officer.

Failure to Maintain Coverage:

Consultant agrees to suspend and cease all operations hereunder during such period of time as the required insurance coverage is not in effect and evidence of insurance has not been approved by the City. The City shall have the right to withhold any payment due Consultant until Consultant has fully complied with the insurance provisions of this contract.

Acceptability of Insurers:

Each such policy shall be from a company or companies with a current A.M. Best's rating of no less than A-:VII, and authorized to do business in the State of California or otherwise allowed to place insurance through surplus line brokers under applicable provisions of the California Insurance Code or any federal law. Any other rating must be approved in writing in accordance with the City insurance guidelines.

Contractual Liability:

The coverage provided shall apply to the obligations assumed by the Consultant under the indemnity provisions of this contract but this insurance provision in no way limits the indemnity provisions and the indemnity provisions in no way limit this insurance provision.

Agreement Between the City of Los Angeles,
the City of Long Beach, Portcheck, LLC, and
Marine Terminal Operators
FMC Agreement No. _____
Original Page No. E-10

Please note that this endorsement form may be photocopied; however, it may not be altered or recreated.

GENERAL LIABILITY SPECIAL ENDORSEMENT FOR THE CITY OF LONG BEACH, HARBOR DEPARTMENT		ENDORSEMENT NO. _____	EFFECTIVE DATE (MM/DD/YY) _____						
PRODUCER Telephone _____		POLICY INFORMATION Insurance Company: _____ Policy No.: _____ Policy Period: (from) _____ (to) _____ <input type="checkbox"/> Deductible \$ _____ OR <input type="checkbox"/> Self-Insured Retention of \$ _____							
NAME INSURED & ADDRESS _____		APPLICABILITY. This insurance pertains to the operations, products and/or activities of the Named Insured under all written agreements and permits in force with the City unless checked here <input type="checkbox"/> in which case only the following specific agreements and permits with the City are covered: AGREEMENTS/PERMITS: _____							
TYPE OF INSURANCE <input type="checkbox"/> GENERAL LIABILITY <input type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> COMPREHENSIVE GENERAL LIABILITY <input type="checkbox"/> OWNERS & CONTRACTORS PROTECTIVE		OTHER PROVISIONS _____							
COVERAGES <input type="checkbox"/> GENERAL LIABILITY <input type="checkbox"/> PRODUCTS/COMPLETED OPERATIONS <input type="checkbox"/> PERSONAL & ADVERTISING INJURY <input type="checkbox"/> FIRE LEGAL LIABILITY <input type="checkbox"/> EXPLOSION, COLLAPSE, UNDERGROUND HAZARDS (XCU) <input type="checkbox"/> CONTRACTUAL LIABILITY - RAILROADS		<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <th colspan="2" style="text-align: center;">LIABILITY LIMITS IN \$</th> </tr> <tr> <th style="text-align: center;">EACH OCCURRENCE</th> <th style="text-align: center;">AGGREGATE</th> </tr> <tr> <td style="height: 100px;"></td> <td style="height: 100px;"></td> </tr> </table>		LIABILITY LIMITS IN \$		EACH OCCURRENCE	AGGREGATE		
LIABILITY LIMITS IN \$									
EACH OCCURRENCE	AGGREGATE								
CLAIMS: Underwriter's Representative for claims pursuant to this Insurance (must be completed if different than producer) Name: _____ Address: _____ Telephone: _____									
<p>In consideration of the premium charged and notwithstanding any inconsistent statement in the policy to which this endorsement is attached or any endorsement now or hereafter attached thereto, it is agreed as follows:</p> <ol style="list-style-type: none"> ADDITIONAL INSURED. The City of Long Beach, its Board of Harbor Commissioners, individually and collectively, and their officers and employees ("City") are included as additional insureds with regard to liability and defense of suits or claims arising from the operations, products and/or activities performed by or on behalf of the Named Insured. CONTRIBUTION NOT REQUIRED. This insurance shall be primary. Any other insurance, deductible, or self-insurance available to the insureds added by this endorsement shall be in excess of and shall not contribute with this insurance. CANCELLATION NOTICE. With respect to the interests of City, this insurance shall not be cancelled, or the scope or limits of coverage reduced by endorsement, except after thirty (30) days prior written notice has been given to City at address indicated below. (Except 10 days advance notice shall be allowed for non-payment of premium.) SCOPE OF COVERAGE. This endorsement shall afford coverage at least as broad as Insurance Services Office Commercial General Liability Coverage, "occurrence" form CG 0001. <p>Except as stated above, nothing herein shall be held to waive, alter or extend any of the limits, conditions, agreements or exclusions of the policy to which this endorsement is attached.</p>									
ENDORSEMENT HOLDER / ADDITIONAL INSURED									
CITY OF LONG BEACH BOARD OF HARBOR COMMISSIONERS 4801 AIRPORT PLAZA DR. LONG BEACH, CA 90815 ATTENTION: Risk Management Division TELEPHONE: 562-283-7475 FAX: 562-283-7499 E-MAIL: riskmgmt@polb.com		AUTHORIZED REPRESENTATIVE I, _____ (print/type name), warrant that I have authority to bind the above-mentioned insurance company and by my signature hereon do so bind this company to this endorsement. Signature _____ Title _____ Employer of Signatory _____ Telephone: _____ ; _____ Date Signed _____							

Revised 3-14

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Agreement Between the City of Los Angeles,
the City of Long Beach, Portcheck, LLC, and
Marine Terminal Operators
FMC Agreement No. _____
Original Page No. E-11

Please note that this endorsement form may be photocopied; however, it may not be altered or recreated.

AUTOMOBILE LIABILITY SPECIAL ENDORSEMENT FOR THE CITY OF LONG BEACH, HARBOR DEPARTMENT		ENDORSEMENT NO. _____	EFFECTIVE DATE (MM/DD/YY) _____
PRODUCER Telephone _____		POLICY INFORMATION Insurance Company: _____ Policy No.: _____ Policy Period: (from) _____ (to) _____ <input type="checkbox"/> Deductible \$ _____ OR <input type="checkbox"/> Self-Insured Retention of \$ _____	
NAMED INSURED & ADDRESS _____		APPLICABILITY. This insurance pertains to the operations and activities of the Named Insured under all written permits and agreements in force with the City unless checked here <input type="checkbox"/> in which case only the following specific permits and agreements with the City are covered: AGREEMENTS/PERMITS: _____	
TYPE OF INSURANCE <input type="checkbox"/> BUSINESS AUTO POLICY <input type="checkbox"/> TRUCKERS AND MOTOR CARRIER LIABILITY POLICY <input type="checkbox"/> GARAGEKEEPERS LIABILITY <input type="checkbox"/> STUNT ACTIVITY <input type="checkbox"/> OTHER _____		OTHER PROVISIONS _____	
LIABILITY LIMIT IN \$ \$ _____ each accident, for bodily injury and property damage liability		CLAIMS: Underwriter's Representative for claims pursuant to this Insurance (must be completed if different than producer) Name: _____ Address: _____ Telephone: (_____) _____	
In consideration of the premium charged and notwithstanding any inconsistent statement in the policy to which this endorsement is attached or any endorsement now or hereafter attached thereto, it is agreed as follows:			
1. ADDITIONAL INSURED. The City of Long Beach, its Board of Harbor Commissioners, individually and collectively, and their officers and employees ("City") are included as additional insureds with regard to liability and defense of suits or claims arising from the operations and activities performed by or on behalf of the Named Insured. 2. CONTRIBUTION NOT REQUIRED. This insurance shall be primary. Any other insurance, deductible, or self-insurance available to the insureds added by this endorsement shall be in excess of and shall not contribute with this insurance. 3. CANCELLATION NOTICE. With respect to the interests of City, this insurance shall not be cancelled, or the scope or limits of coverage reduced by endorsement, except after thirty (30) days prior written notice has been given to City at address indicated below. (Except 10 days advance notice shall be allowed for non-payment of premium.) 4. SCOPE OF COVERAGE. This endorsement shall afford coverage at least as broad as Insurance Services Office form number CAD001. <input type="checkbox"/> Symbol 1 (any auto) <input type="checkbox"/> Symbol 2 (owned autos) <input type="checkbox"/> Symbol 7 (scheduled autos) <input type="checkbox"/> Symbol 8 (hired autos) <input type="checkbox"/> Symbol 9 (non-owned autos) Except as stated above, nothing herein shall be held to waive, alter or extend any of the limits, conditions, agreements or exclusions of the policy to which this endorsement is attached.			
ENDORSEMENT HOLDER / ADDITIONAL INSURED CITY OF LONG BEACH BOARD OF HARBOR COMMISSIONERS 4801 AIRPORT PLAZA DR. LONG BEACH, CA 90815 ATTENTION: Risk Management Division TELEPHONE: 562-283-7475 FAX: 562-283-7499 E-MAIL: riskmgmt@polb.com		AUTHORIZED REPRESENTATIVE I _____ (print/type name), warrant that I have authority to bind the above-mentioned insurance company and by my signature hereon do so bind this company to this endorsement. Signature _____ Title _____ Employer of Signatory _____ Telephone: (_____) _____ Date Signed _____	

Revised 3-14

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Agreement Between the City of Los Angeles,
the City of Long Beach, Portcheck, LLC, and
Marine Terminal Operators
FMC Agreement No. _____
Original Page No. E-12

Please note that this endorsement form may be photocopied; however, it may not be altered or recreated.

PROFESSIONAL LIABILITY SPECIAL ENDORSEMENT FOR THE CITY OF LONG BEACH, HARBOR DEPARTMENT		ENDORSEMENT NO.	EFFECTIVE DATE (MM/DD/YY)						
PRODUCER <div style="border: 1px solid black; height: 40px; margin-top: 5px;"></div> Telephone _____	POLICY INFORMATION Insurance Company: _____ Policy No.: _____ Policy Period: (from) _____ (to) _____ <input type="checkbox"/> Deductible \$ _____ OR <input type="checkbox"/> Self-Insured Retention of \$ _____ Retroactive Date _____								
NAMED INSURED & ADDRESS <div style="border: 1px solid black; height: 60px; margin-top: 5px;"></div>	APPLICABILITY. This insurance pertains to services and activities of the Named Insured under all written agreements and permits in force with the City unless checked here <input type="checkbox"/> in which case only the following specific agreements and permits with the City are covered: AGREEMENTS/PERMITS: _____								
TYPE OF INSURANCE <input type="checkbox"/> Claims Made Form <input type="checkbox"/> Occurrence Form	CLAIMS: Underwriter's Representative for claims pursuant to this Insurance (must be completed if different than producer) Name: _____ Address: _____ Telephone: _____								
COVERAGES <input type="checkbox"/> ARCHITECTS /ENGINEERS PROFESSIONAL LIABILITY <input type="checkbox"/> ENVIRONMENTAL PROFESSIONAL LIABILITY <input type="checkbox"/> CONTRACTORS / PROJECT MANAGER'S PROFESSIONAL LIABILITY <input type="checkbox"/> MISCELLANEOUS PROFESSIONAL LIABILITY <input type="checkbox"/> OTHER _____	<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th colspan="2" style="text-align: center; padding: 5px;">LIABILITY LIMITS IN \$</th> </tr> <tr> <th style="width: 50%; text-align: center; padding: 5px;">EACH CLAIM</th> <th style="width: 50%; text-align: center; padding: 5px;">AGGREGATE</th> </tr> </thead> <tbody> <tr> <td style="height: 60px;"></td> <td style="height: 60px;"></td> </tr> </tbody> </table>			LIABILITY LIMITS IN \$		EACH CLAIM	AGGREGATE		
LIABILITY LIMITS IN \$									
EACH CLAIM	AGGREGATE								
In consideration of the premium charged and notwithstanding any inconsistent statement in the policy to which this endorsement is attached or any endorsement now or hereafter attached thereto, it is agreed as follows:									
1. CANCELLATION NOTICE. This insurance shall not be cancelled, or the scope or limits of coverage reduced by endorsement, except after thirty (30) days prior written notice has been given to City at address indicated below. (Except 10 days advance notice shall be allowed for non-payment of premium.)									
2. SCOPE OF COVERAGE: A. Policy covers scope of contracted services: <input type="checkbox"/> YES <input type="checkbox"/> NO B. If NO, what contracted professional services are not covered: _____									
3. CONTRACTUAL LIABILITY COVERAGE: <input type="checkbox"/> IS INCLUDED. <input type="checkbox"/> IS NOT INCLUDED.									
4. OTHER PROVISIONS: The following exclusions or special provisions apply to this coverage. Except as stated above, nothing herein shall be held to waive, alter or extend any of the limits, conditions, agreements or exclusions of the policy to which this endorsement is attached.									
ENDORSEMENT HOLDER CITY OF LONG BEACH BOARD OF HARBOR COMMISSIONERS 4801 AIRPORT PLAZA DR. LONG BEACH, CA 90815 ATTENTION: Risk Management Division TELEPHONE: 562-283-7475 FAX: 562-283-7499 E-MAIL: riskmgmt@polb.com		AUTHORIZED REPRESENTATIVE I _____ (print/type name), warrant that I have authority to bind the above-mentioned insurance company and by my signature hereon do so bind this company to this endorsement. Signature _____ Title _____ Employer of Signatory _____ Telephone: () _____ Date Signed _____							

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EXHIBIT F – LOS ANGELES EXHIBITS

F-1: POLA INVOICE PROCEDURE

F-2: AFFIRMATIVE ACTION AND ADA

**F-3: VERY SMALL BUSINESS PROGRAM/
LOCAL BUSINESS PREFERENCE PROGRAM**

F-4: OTHER CITY OF LOS ANGELES PROVISIONS

F-5: EQUAL BENEFITS ORDINANCE

EXHIBIT F-1
POLA INVOICE PROCEDURE

1. Invoice Certification. Each POLA invoice shall be submitted in quadruplicate monthly and shall be signed by the Vendor and shall include the following certification:

"I certify under penalty of perjury that the above bill is just and correct according to the terms of Agreement No. _____ and that payment has not been received. I further certify that I have complied with the provisions of the City's Living Wage Ordinance.

Vendor's Signature)

2. Invoice Address. For payment and processing, all POLA invoices should be mailed to the following address:

Accounts Payable Section
Harbor Department, City of Los Angeles
P.O. Box 191
San Pedro, CA 90733-0191

3. Taxpayer Identification Number (TIN). The Internal Revenue Service ("IRS") requires that all consultants and suppliers of materials and supplies provide a TIN to the party that pays them. Vendor declares that it has an authorized TIN which shall be provided to the POLA Harbor Department prior to payment under this Agreement. No payments will be made under this Agreement without a valid TIN.

4. Business Tax Registration Certificate. Los Angeles Municipal Code Section 21.09 et seq. provides that every person, other than a municipal employee, who engages in any business within the City of Los Angeles, is required to obtain the necessary Business Tax Registration Certificate ("BTRC") and pay business taxes. The City Controller has determined that this Code Section applies to firms that are doing contract work for the Department. See <https://business.lacity.org/start/BTRC> Vendor must include on the face of each itemized invoice submitted for payment its BTRC number. No invoice will be processed for payment by POLA without this number shown thereon. All invoices for Development Costs shall be approved by the Executive Director or his or her designee prior to payment. All invoices due and payable and found to be in order shall be paid as soon as, in the ordinary course of POLA business, the same may be approved, audited and paid.

5. Supporting documentation. Vendor shall submit appropriate supporting documents with each invoice. Such documents may include provider invoices, payrolls, and time sheets and the operational collections report described in Article 5C. The City may require, and Vendor shall provide, all documents reasonably required to determine whether amounts on the invoice are allowable expenses under this Agreement.

EXHIBIT F-2 – AFFIRMATIVE ACTION AND AMERICANS WITH DISABILITIES ACT

Vendor, during the performance of this Agreement, shall not discriminate in its employment practices against any employee or applicant for employment because of employee's or applicant's race, religion, national origin, ancestry, sex, age, sexual orientation, gender identity, HIV status, handicap, color, disability, marital status, domestic partner status, veteran status or medical condition. The below provisions of Section 10.8.4 of the Los Angeles Administrative Code (LAAC) shall be incorporated and made a part of this Agreement. All subcontracts awarded shall contain a like nondiscrimination provision. Compliance with the Americans with Disabilities Act of 1990 shall be the sole responsibility of Vendor, and Vendor shall defend and hold the Ports harmless from any expense or liability arising from Vendor's non-compliance therewith.

LAAC Sec. 10.8.4 Affirmative Action Program Provisions.

Every non-construction and construction Contract with, or on behalf of, the City of Los Angeles for which the consideration is \$25,000 or more shall contain the following provisions which shall be designated as the AFFIRMATIVE ACTION PROGRAM provisions of such Contract:

A. During the performance of a City Contract, the Contractor certifies and represents that the Contractor and each Subcontractor hereunder will adhere to an Affirmative Action Program to ensure that in its employment practices, persons are employed and employees are treated equally and without regard to or because of race, color, religion, national origin, ancestry, sex, sexual orientation, age, disability, marital status, domestic partner status or medical condition.

1. This section applies to work or services performed or materials manufactured or assembled in the United States.

2. Nothing in this section shall require or prohibit the establishment of new classifications of employees in any given craft, work or service category.

3. The Contractor shall post a copy of Paragraph A., hereof, in conspicuous places at its place of business available to employees and applicants for employment.

B. The Contractor shall, in all solicitations or advertisements for employees placed, by or on behalf of, the Contractor, state that all qualified applicants will receive consideration for employment without regard to their race, color, religion, national origin, ancestry, sex, sexual orientation, age, disability, marital status, domestic partner status or medical condition.

C. At the request of the Awarding Authority or the DAA, the Contractor shall certify on an electronic or hard copy form to be supplied, that the Contractor has not discriminated in the performance of City Contracts against any employee or applicant for

employment on the basis or because of race, color, religion, national origin, ancestry, sex, sexual orientation, age, disability, marital status, domestic partner status or medical condition.

D. The Contractor shall permit access to, and may be required to provide certified copies of, all of its records pertaining to employment and to its employment practices by the Awarding Authority or the DAA for the purpose of investigation to ascertain compliance with the Affirmative Action Program provisions of City Contracts and, upon request, to provide evidence that it has or will comply therewith.

E. The failure of any Contractor to comply with the Affirmative Action Program provisions of City Contracts may be deemed to be a material breach of a City Contract. The failure shall only be established upon a finding to that effect by the Awarding Authority, on the basis of its own investigation or that of the DAA. No finding shall be made except upon a full and fair hearing after notice and an opportunity to be heard has been given to the Contractor.

F. Upon a finding duly made that the Contractor has breached the Affirmative Action Program provisions of a City Contract, the Contract may be forthwith cancelled, terminated or suspended, in whole or in part, by the Awarding Authority, and all monies due or to become due hereunder may be forwarded to and retained by the City of Los Angeles. In addition thereto, the breach may be the basis for a determination by the Awarding Authority or the Board of Public Works that the Contractor is a non-responsible bidder or proposer pursuant to the provisions of Section 10.40 of this Code. In the event of such determination, the Contractor shall be disqualified from being awarded a contract with the City of Los Angeles for a period of two years, or until he or she shall establish and carry out a program in conformance with the provisions hereof.

G. In the event of a finding by the Fair Employment and Housing Commission of the State of California, or the Board of Public Works of the City of Los Angeles, or any court of competent jurisdiction, that the Contractor has been guilty of a willful violation of the California Fair Employment and Housing Act, or the Affirmative Action Program provisions of a City Contract, there may be deducted from the amount payable to the Contractor by the City of Los Angeles under the contract, a penalty of ten dollars for each person for each calendar day on which the person was discriminated against in violation of the provisions of a City Contract.

H. Notwithstanding any other provisions of a City Contract, the City of Los Angeles shall have any and all other remedies at law or in equity for any breach hereof.

I. The Public Works Board of Commissioners shall promulgate rules and regulations through the DAA and provide to the Awarding Authorities electronic and hard copy forms for the implementation of the Affirmative Action Program provisions of City contracts, and rules and regulations and forms shall, so far as practicable, be similar to those adopted in applicable Federal Executive Orders. No other rules, regulations or forms may be used by an Awarding Authority of the City to accomplish this contract compliance program.

J. Nothing contained in City Contracts shall be construed in any manner so as to require or permit any act which is prohibited by law.

K. By affixing its signature to a Contract that is subject to this article, the Contractor shall agree to adhere to the provisions in this article for the duration of the Contract. The Awarding Authority may also require Contractors and suppliers to take part

in a pre-registration, pre-bid, pre-proposal, or pre-award conference in order to develop, improve or implement a qualifying Affirmative Action Program.

1. The Contractor certifies and agrees to immediately implement good faith effort measures to recruit and employ minority, women and other potential employees in a non-discriminatory manner including, but not limited to, the following actions as appropriate and available to the Contractor's field of work. The Contractor shall:

- (a) Recruit and make efforts to obtain employees through:
 - (i) Advertising employment opportunities in minority and other community news media or other publications.
 - (ii) Notifying minority, women and other community organizations of employment opportunities.
 - (iii) Maintaining contact with schools with diverse populations of students to notify them of employment opportunities.
 - (iv) Encouraging existing employees, including minorities and women, to refer their friends and relatives.
 - (v) Promoting after school and vacation employment opportunities for minority, women and other youth.
 - (vi) Validating all job specifications, selection requirements, tests, etc.
 - (vii) Maintaining a file of the names and addresses of each worker referred to the Contractor and what action was taken concerning the worker.
 - (viii) Notifying the appropriate Awarding Authority and the DAA in writing when a union, with whom the Contractor has a collective bargaining agreement, has failed to refer a minority, woman or other worker.
- (b) Continually evaluate personnel practices to assure that hiring, upgrading, promotions, transfers, demotions and layoffs are made in a non-discriminatory manner so as to achieve and maintain a diverse work force.
- (c) Utilize training programs and assist minority, women and other employees in locating, qualifying for and engaging in the training programs to enhance their skills and advancement.
- (d) Secure cooperation or compliance from the labor referral agency to the Contractor's contractual Affirmative Action Program obligations.
- (e) Establish a person at the management level of the Contractor to be the Equal Employment Practices officer. Such individual shall have the authority to disseminate and enforce the Contractor's Equal Employment and Affirmative Action Program policies.
- (f) Maintain records as are necessary to determine compliance with Equal Employment Practices and Affirmative Action Program obligations and make the records available to City, State and Federal authorities upon request.
- (g) Establish written company policies, rules and procedures which shall be encompassed in a company-wide Affirmative Action Program for all its operations and Contracts. The policies shall be provided to all employees, Subcontractors, vendors, unions and all others with whom the Contractor may become involved in fulfilling any of its Contracts.

(h) Document its good faith efforts to correct any deficiencies when problems are experienced by the Contractor in complying with its obligations pursuant to this article. The Contractor shall state:

- (i) What steps were taken, how and on what date.
- (ii) To whom those efforts were directed.
- (iii) The responses received, from whom and when.
- (iv) What other steps were taken or will be taken to comply and when.
- (v) Why the Contractor has been or will be unable to comply.

2. Every contract of \$25,000 or more which may provide construction, demolition, renovation, conservation or major maintenance of any kind shall also comply with the requirements of Section 10.13 of the Los Angeles Administrative Code.

L. The Affirmative Action Program required to be submitted hereunder and the pre-registration, pre-bid, pre-proposal or pre-award conference which may be required by the Awarding Authority shall, without limitation as to the subject or nature of employment activity, be concerned with such employment practices as:

1. Apprenticeship where approved programs are functioning, and other on-the-job training for non-apprenticeable occupations;
2. Classroom preparation for the job when not apprenticeable;
3. Pre-apprenticeship education and preparation;
4. Upgrading training and opportunities;
5. Encouraging the use of Contractors, Subcontractors and suppliers of all racial and ethnic groups; provided, however, that any contract subject to this ordinance shall require the Contractor, Subcontractor or supplier to provide not less than the prevailing wage, working conditions and practices generally observed in private industries in the Contractor's, Subcontractor's or supplier's geographical area for such work;
6. The entry of qualified women, minority and all other journeymen into the industry; and
7. The provision of needed supplies or job conditions to permit persons with disabilities to be employed, and minimize the impact of any disability.

M. Any adjustments which may be made in the Contractor's work force to achieve the requirements of the City's Affirmative Action Program in purchasing and construction shall be accomplished by either an increase in the size of the work force or replacement of those employees who leave the work force by reason of resignation, retirement or death and not by termination, layoff, demotion or change in grade.

N. This ordinance shall not confer upon the City of Los Angeles or any Agency, Board or Commission thereof any power not otherwise provided by law to determine the legality of any existing collective bargaining agreement and shall have application only to discriminatory employment practices by Contractors engaged in the performance of City Contracts.

O. All Contractors subject to the provisions of this article shall include a similar provision in all subcontracts awarded for work to be performed under the Contract with the City and shall impose the same obligations including, but not limited to, filing and reporting obligations, on the Subcontractors as are applicable to the Contractor. Failure of the Contractor to comply with this requirement or to obtain the compliance of its Subcontractors with all such obligations shall subject the Contractor to the imposition of

any and all sanctions allowed by law, including, but not limited to, termination of the Contractor's Contract with the City.

EXHIBIT F-3

SMALL/VERY SMALL BUSINESS ENTERPRISE PROGRAM LOCAL BUSINESS PREFERENCE PROGRAM

(1) SMALL/VERY SMALL BUSINESS ENTERPRISE PROGRAM:

The Harbor Department is committed to creating an environment that provides all individuals and businesses open access to the business opportunities available at the Harbor Department in a manner that reflects the diversity of the City of Los Angeles. The Harbor Department's Small Business Enterprise (SBE) Program was created to provide additional opportunities for small businesses to participate in professional service and construction contracts. An overall Department goal of 25% SBE participation, including 5% Very Small Business Enterprise (VSBE) participation, has been established for the Program. The specific goal or requirement for each contract opportunity may be higher or lower based on the scope of work.

It is the policy of the Harbor Department to solicit participation in the performance of all service contracts by all individuals and businesses, including, but not limited to, SBEs, VSBEs, women-owned business enterprises (WBEs), minority-owned business enterprises (MBEs), and disabled veteran business enterprises (DVBES). The SBE Program allows the Harbor Department to target small business participation, including MBEs, WBEs, and DVBES, more effectively. It is the intent of the Harbor Department to make it easier for small businesses to participate in contracts by providing education and assistance on how to do business with the City, and ensuring that payments to small businesses are processed in a timely manner. **In order to ensure the highest participation of SBE/VSBE/MBE/WBE/DVBES, all proposers shall utilize the City's contracts management and opportunities database, the Los Angeles Business Assistance Virtual Network (LABAVN), at <http://www.labavn.org>, to outreach to potential subconsultants.**

The Harbor Department defines a SBE as an independently owned and operated business that is not dominant in its field and meets criteria set forth by the Small Business Administration in Title 13, Code of Federal Regulations, Part 121. Go to www.sba.gov for more information. The Harbor Department defines a VSBE based on the State of California's Micro-business definition which is 1) a small business that has average annual gross receipts of \$3,500,000 or less within the previous three years, or (2) a small business manufacturer with 25 or fewer employees.

The SBE Program is a results-oriented program, requiring consultants who receive contracts from the Harbor Department to perform outreach and utilize certified small businesses. **Based on the work to be performed, it has been determined that the percentage of small business participation will be __%, including __% VSBE participation.** The North American Industry Classification System (NAICS) Code for the scope of services is _____. This NAICS Code is the industry code that corresponds to at least 51% of the scope of services and will be used to determine the size standard for SBE participation of the Prime Consultant. The maximum SBE size standard for this NAICS Code is \$_____ million.

Consultant shall be responsible for determining the SBE status of its subconsultants for purposes of meeting the small business requirement. Subconsultants must qualify as an SBE based on the type of services that they will be performing under the Agreement. All business participation will be determined by the percentage of the total amount of compensation under the agreement paid to SBEs. The Consultant shall not substitute an SBE firm without obtaining prior approval of the City. A request for substitution must be based upon demonstrated good cause. If substitution

AFFIDAVIT OF COMPANY STATUS

"The undersigned declares under penalty of perjury pursuant to the laws of the State of California that the following information and information contained on **the attached Consultant Description Form** is true and correct and includes all material information necessary to identify and explain the operations of

Name of Firm

as well as the ownership and location thereof. Further, the undersigned agrees to provide complete and accurate information regarding ownership in the named firm, and all of its domestic and foreign affiliates, any proposed changes of the ownership and to permit the audit and examination of firm ownership documents, and the ownership documents of all of its domestic and foreign affiliates, in association with this agreement."

(1) **Small/Very Small Business Enterprise Program:** Please indicate the ownership of your company.

Please check all that apply. At least one box must be checked:

☐SBE ☐VSBE ☐MBE ☐WBE ☐DVBE ☐OBE

- A Small Business Enterprise (SBE) is an independently owned and operated business that is not dominant in its field and meets criteria set forth by the Small Business Administration in Title 13, Code of Federal Regulations, Part 121.
- A Very Small Business Enterprise (VSBE) is 1) a small business that has average annual gross receipts of \$3,500,000 or less within the previous three years, or (2) a small business manufacturer with 25 or fewer employees.
- A Minority Business Enterprise (MBE) is defined as a business in which a minority owns and controls at least 51% of the business. A Woman Business (WBE) is defined as a business in which a woman owns and controls at least 51% of the business. For the purpose of this project, a minority includes:
 - (1) Black (all persons having origins in any of the Black African racial groups not of Hispanic origin);
 - (2) Hispanic (all persons of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish Culture or origin, regardless of race);
 - (3) Asian and Pacific Islander (all persons having origins in any of the original peoples of the Far East, Southeast Asia, The Indian Subcontinent, or the Pacific Islands); and
 - (4) American Indian or Alaskan Native (all persons having origins in any of the original peoples of North America and maintaining identifiable tribal affiliations through membership and

Consultant Description Form

PRIME CONSULTANT:

Contract Title: _____
Business Name: _____ LABAVN ID#: _____
Award Total: \$ _____
Owner's Ethnicity: _____ Gender _____ Group: SBE VSBE MBE WBE DVBE OBE (Circle all that apply)
Local Business Enterprise: YES _____ NO _____ (Check only one)
Primary NAICS Code: _____ Average Three Year Gross Revenue: \$ _____
Address: _____
City/State/Zip: _____
County: _____
Telephone: () _____ FAX: () _____
Contact Person/Title: _____
Email Address: _____

SUBCONSULTANT:

Business Name: _____ LABAVN ID#: _____
Award Total: (% or \$): _____
Services to be provided: _____
Owner's Ethnicity: _____ Gender _____ Group: SBE VSBE MBE WBE DVBE OBE (Circle all that apply)
Local Business Enterprise: YES _____ NO _____ (Check only one)
Primary NAICS Code: _____ Average Three Year Gross Revenue: \$ _____
Address: _____
City/State/Zip: _____
County: _____
Telephone: () _____ FAX: () _____
Contact Person/Title: _____
Email Address: _____

EXHIBIT F-4 CITY OF LOS ANGELES REQUIRED PROVISIONS

As used in these City of Los Angeles contract provisions:

"City" means City of Los Angeles.

"Department" means the Los Angeles Harbor Department, also referred to as "POLA" in this Agreement.

1. CONFLICT OF INTEREST

It is hereby understood and agreed that the parties to this Agreement have read and are aware of the provisions of Section 1090 et seq. and Section 87100 et seq. of the California Government Code relating to conflict of interest of public officers and employees, as well as the Los Angeles Municipal Code ("LAMC") Municipal Ethics and Conflict of Interest provisions of Section 49.5.1 et seq. and the Conflict of Interest Codes of the City and the Department. All parties hereto agree that they are unaware of any financial or economic interest of any public officer or employee of City relating to this Agreement. Notwithstanding any other provision of this Agreement, it is further understood and agreed that if such financial interest does exist at the inception of this Agreement, City may immediately terminate this Agreement by giving written notice thereof.

During the term of this Agreement, Vendor shall inform the Department in writing when Vendor, or any of its subconsultants, employs or hires in any capacity, and for any length of time, a person who has worked for the Department as a Commissioner, officer or employee. Said notice shall include the individual's name and current position and their prior position and years of employment with the Department. Written notice shall be provided by a Vendor to the Department within thirty (30) days of the employment or hiring of the individual.

2. SERVICE CONTRACTOR WORKER RETENTION POLICY AND LIVING WAGE POLICY REQUIREMENTS

The Board of Harbor Commissioners of the City of Los Angeles adopted Resolution No. 5771 on January 13, 1999, agreeing to adopt the provisions of Los Angeles City Ordinance No. 171004 relating to Service Contractor Worker Retention ("SCWR"), Section 10.36 et seq. of the Los Angeles Administrative Code, as the policy of the Department. Further, Charter Section 378 requires compliance with the City's Living Wage requirements as set forth by ordinance, Section 10.37 et seq. of the Los Angeles Administrative Code. Vendor shall comply with the policy wherever applicable. Violation of this provision, where applicable, shall entitle the City to terminate this Agreement and otherwise pursue legal remedies that may be available.

3. WAGE AND EARNINGS ASSIGNMENT ORDERS / NOTICES OF ASSIGNMENTS

Vendor and any subconsultants are obligated to fully comply with all applicable state and federal employment reporting requirements for Vendor or any subconsultant's employees.

Vendor and any subconsultants shall certify that the principal owner(s) are in compliance with any Wage and Earnings Assignment Orders and Notices of Assignments

EXHIBIT F-4 CITY OF LOS ANGELES REQUIRED PROVISIONS

applicable to them personally. Vendor and any subconsultants will fully comply with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignments in accordance with Cal. Family Code Sections 5230 et seq. Vendor and any subconsultants will maintain such compliance throughout the term of this Agreement.

4. EQUAL BENEFITS POLICY

The Board of Harbor Commissioners of the City of Los Angeles adopted Resolution No. 6328 on January 12, 2005, agreeing to adopt the provisions of Los Angeles City Ordinance No. 172,908, as amended, relating to Equal Benefits, Section 10.8.2.1 et seq. of the Los Angeles Administrative Code, as a policy of the POLA Harbor Department. Vendor shall comply with the policy wherever applicable. Violation of this policy shall entitle the City to terminate any Agreement with Vendor and pursue any and all other legal remedies that may be available. See Exhibit F-3 – Los Angeles Exhibits.

5. COMPLIANCE WITH LOS ANGELES CITY CHARTER SECTION 470(c)(12)

Vendor, all Subcontractors, and their principals are obligated to fully comply with City of Los Angeles Charter Section 470(c)(12) and related ordinances, regarding limitations on campaign contributions and fundraising for certain elected City officials or candidates for elected City office if the agreement is valued at \$100,000 or more and requires approval of a City elected official. Additionally, Vendor is required to provide and update certain information to the City as specified by law. Vendor shall include the following notice in any contract with a subconsultant expected to receive at least \$100,000 for performance under this Agreement:

Notice Regarding Los Angeles Campaign Contribution and Fundraising Restrictions

As provided in Charter Section 470(c)(12) and related ordinances, you are a subconsultant on Harbor Department Agreement No. _____. Pursuant to City Charter Section 470(c)(12), subconsultant and its principals are prohibited from making campaign contributions and fundraising for certain elected City officials or candidates for elected City office for 12 months after the Agreement is signed. Subconsultant is required to provide to Vendor names and addresses of the subconsultant's principals and contact information and shall update that information if it changes during the 12 month time period. Subconsultant's information must be provided to Vendor within 10 business days. Failure to comply may result in termination of the Agreement or any other available legal remedies including fines. Information about the restrictions may be found at the City Ethics Commission's website at <http://ethics.lacity.org/> or by calling 213-978-1960.

Vendor, its subconsultants, and its Principal shall comply with these requirements and limitations. Violation of this provision shall entitle the City to terminate this Agreement and pursue any and all legal remedies that may be available.

EXHIBIT F-5

Sec. 10.8.2.1. Equal Benefits Ordinance.

Discrimination in the provision of employee benefits between employees with domestic partners and employees with spouses results in unequal pay for equal work. Los Angeles law prohibits entities doing business with the City from discriminating in employment practices based on marital status and/or sexual orientation. The City's departments and contracting agents are required to place in all City contracts a provision that the company choosing to do business with the City agrees to comply with the City's nondiscrimination laws.

It is the City's intent, through the contracting practices outlined in this Ordinance, to assure that those companies wanting to do business with the City will equalize the total compensation between similarly situated employees with spouses and with domestic partners. The provisions of this Ordinance are designed to ensure that the City's contractors will maintain a competitive advantage in recruiting and retaining capable employees, thereby improving the quality of the goods and services the City and its people receive, and ensuring protection of the City's property.

(c) Equal Benefits Requirements.

(1) No Awarding Authority of the City shall execute or amend any Contract with any Contractor that discriminates in the provision of Benefits between employees with spouses and employees with Domestic Partners, between spouses of employees and Domestic Partners of employees, and between dependents and family members of spouses and dependents and family members of Domestic Partners.

(2) A Contractor must permit access to, and upon request, must provide certified copies of all of its records pertaining to its Benefits policies and its employment policies and practices to the DAA, for the purpose of investigation or to ascertain compliance with the Equal Benefits Ordinance.

(3) A Contractor must post a copy of the following statement in conspicuous places at its place of business available to employees and applicants for employment: "During the performance of a Contract with the City of Los Angeles, the Contractor will provide equal benefits to its employees with spouses and its employees with domestic partners." The posted statement must also include a City contact telephone number which will be provided each Contractor when the Contract is executed.

(4) A Contractor must not set up or use its contracting entity for the purpose of evading the requirements imposed by the Equal Benefits Ordinance.

(d) Other Options for Compliance. Provided that the Contractor does not discriminate in the provision of Benefits, a Contractor may also comply with the Equal Benefits Ordinance in the following ways:

(1) A Contractor may provide an employee with the Cash Equivalent only if the DAA determines that either:

a. The Contractor has made a reasonable, yet unsuccessful effort to provide Equal Benefits; or

b. Under the circumstances, it would be unreasonable to require the Contractor to provide Benefits to the Domestic Partner (or spouse, if applicable).

(2) Allow each employee to designate a legally domiciled member of the employee's household as being eligible for spousal equivalent Benefits.

(3) Provide Benefits neither to employees' spouses nor to employees' Domestic Partners.

(e) Applicability.

(1) Unless otherwise exempt, a Contractor is subject to and shall comply with all applicable provisions of the Equal Benefits Ordinance.

(2) The requirements of the Equal Benefits Ordinance shall apply to a Contractor's operations as follows:

a. A Contractor's operations located within the City limits, regardless of whether there are employees at those locations performing work on the Contract.

b. A Contractor's operations on real property located outside of the City limits if the property is owned by the City or the City has a right to occupy the property, and if the Contractor's presence at or on that property is connected to a Contract with the City.

c. The Contractor's employees located elsewhere in the United States but outside of the City limits if those employees are performing work on the City Contract.

(3) The requirements of the Equal Benefits Ordinance do not apply to collective bargaining agreements ("CBA") in effect prior to January 1, 2000. The Contractor must agree to propose to its union that the requirements of the Equal Benefits Ordinance be incorporated into its CBA upon amendment, extension, or other modification of a CBA occurring after January 1, 2000.

(f) Mandatory Contract Provisions Pertaining to Equal Benefits. Unless otherwise exempted, every Contract shall contain language that obligates the Contractor to comply with the applicable provisions of the Equal Benefits Ordinance. The language shall include provisions for the following:

(1) During the performance of the Contract, the Contractor certifies and represents that the Contractor will comply with the Equal Benefits Ordinance.

(2) The failure of the Contractor to comply with the Equal Benefits Ordinance will be deemed to be a material breach of the Contract by the Awarding Authority.

(3) If the Contractor fails to comply with the Equal Benefits Ordinance the Awarding Authority may cancel, terminate or suspend the Contract, in whole or in part, and all monies due or to become due under the Contract may be retained by the City. The City may also pursue any and all other remedies at law or in equity for any breach.

(4) Failure to comply with the Equal Benefits Ordinance may be used as evidence against the Contractor in actions taken pursuant to the provisions of Los Angeles Administrative Code Section 10.40, et seq., Contractor Responsibility Ordinance.

(5) If the DAA determines that a Contractor has set up or used its Contracting entity for the purpose of evading the intent of the Equal Benefits Ordinance, the Awarding Authority may terminate the Contract on behalf of the City. Violation of this provision may be used as evidence against the Contractor in actions taken pursuant to the provisions of Los Angeles Administrative Code Section 10.40, et seq., Contractor Responsibility Ordinance.

EXHIBIT G.1



Your Company
123 Port Street
Long Beach, California 90802
562-555-1212 Phone
562-555-2121 Fax
Email: sample@yourcompany.com

Invoice

DATE	INVOICE #
5/31/2020	0100

PURCHASE ORDER
BPHA0123456789

BILL TO: Port of Long Beach
XYZ Division
415 W. Ocean Boulevard
Long Beach, California 90802
Email: Sample.Invoicing@polb.com

DESCRIPTION		AMOUNT DUE
Rate Collection System - Development Costs		
May 2020 POLB Invoice		\$ 22,000
		</

NOTE - The supporting details required for these invoices to be similar in make up to Exhibit C or as mutually agreed upon. The supporting documents must also include SBE reporting.



FMC Agreement No.: 201364 Effective Date: Friday, August 20, 2021
Downloaded from WWW.FMC.GOV on Friday, September 3, 2021

EXHIBIT G.3

Agreement Between the City of Los Angeles,
the City of Long Beach, Portcheck, LLC, and
Marine Terminal Operators
FMC No. _____
Original Page No. G-3

PortCheck Invoices Under Review - SAMPLE

				April 2021
MONTH	INVOICE NUMBER	ITEM & DESCRIPTION	STATUS	OPEN AMOUNT
October 2020	10-0211	IT Service Charge - With a description	Agreed	0
October 2020	10-0213	Labor Charge - With a description	Agreed	0
January 2021	01-0301	Rent Increase - With a description	Awaiting Paperwork	5,200
February 2021	02-0325	Telephone Support Services - With a description	In Discussions	39,200
March 2021	03-0361	Charge Card Fees - With a description	Hold \$25,000 until Resolved	25,000
Total Invoices Currently Under Review				69,400
Total Invoices Under Review - Last Period				71,600
Total Invoices Under Review - Currently				69,400
Change In Invoices Under Review (should match main invoice)				2,200

NOTE - This example captures the monthly increases and/or decreases to any PortCheck expenses under review by POLB. Other tracking methods can be used upon mutual agreement.

PortCheck - Exhibit G.4

Agreement Between the City of Los Angeles,
the City of Long Beach, Portcheck, LLC and
Marine Terminal Operators
FMC No. _____
Original Page No. G-4

POLB FORM SBE-3P: SBE/VSBE MONTHLY UTILIZATION REPORT (MUR) FOR PROFESSIONAL SERVICES CONTF



Small Business
Enterprise Program
www.polb.com/sbe

PLEASE COMPLETE THIS FORM IN COMPLIANCE WITH THE ATTACHED INSTRUCTIONS.

Date: _____

SECTION A - GENERAL CONTRACT INFORMATION

1 - Name of Prime Consultant: _____ 2 - Contract \$ Amount Applicable to SBE/VSBE%: \$ _____ 3 - Combined SBE/VSBE Goal: _____ %
4 - Contract Description: _____ 5 - Contract #: _____ 6 - Contract Start Date: _____ 7 - VSBE Portion of Combined Goal: _____ %
8 - Program Manager: _____ 9 - Prime Consultant: _____ SBE _____ VSBE _____ Non-SBE _____ (circle one)

SECTION B - SPECIFIC CONTRACT INFORMATION

10 - Contact Person/Phone #: _____ 11 - MUR #: _____ 12 - Current Applicable Contract \$ Amt: _____
(indicate if FINAL) (including any approved amendments)
13 - Current Reporting Period: _____ 14 - Duration of Contract: _____ 15 - Total \$ Amt Invoiced to Date by Prime: _____

SECTION C - SBE/VSBE UTILIZATION (ADDITIONAL ROWS MAY BE INSERTED IF NEEDED)

NOTE: BLUE SHADED AREAS ARE FORMULAS AND WILL CALCULATE AUTOMATICALLY AS THE PRECEDING CELLS ARE POPULATED.

No.	A Name of SBE/VSBE Participants (including Prime)	B Indicate "SBE" or "VSBE"	C Work Description, as Listed on POLB Form SBE-2P	D Anticipated Start Date of SBE/VSBE	E Original Amounts Committed to SBEs/ VSBEs, As Listed on POLB Form SBE-2P		G Cumulative Amounts to SBE/VSBE Paid To Date (do not populate until SBE/VSBE has been paid by prime)		H Reason for Any Under-Utilization of SBE/VSBE for Current Reporting Period
					E1 Dollar Amount	E2 % of Prime's Current Contract Value	G1 Dollar Amount	G2 % of Total Amount Invoiced to Date by Prime	
1						-		-	
2						-		-	
3						-		-	
4						-		-	
5						-		-	
	Total SBE				\$0.00	0.00%	\$0.00	0.00%	
6						-		-	
7						-		-	
8						-		-	
9						-		-	
10						-		-	
	Total VSBE				\$0.00	0.00%	\$0.00	0.00%	
	Combined SBE & VSBE				\$0.00	0.00%	\$0.00	0.00%	

COMPLETED BY: _____ Name: _____ Email: _____ Phone #: _____ Signature: _____

PortCheck - Exhibit H

Ports Drayage Truck Registry Service Levels

The Ports shall make commercially reasonable efforts to ensure the PDTR is available 24 hours per day, every day of the year, except for scheduled maintenance periods during low activity periods. Scheduled maintenance periods must be clearly stated on the Login page of the web portal and communicated via e-mail to the registered PDTR users at least 3 days before the period.

1. The targeted system quality is:

- At least 99.97% full system availability by all users during non-maintenance periods.
- No more than 70% average CPU utilization over any 5 minute period of time for any server.
- No less than 20% free space on any hard disk storage system used by the system.
- Level 1 Errors – Begin professional resolution efforts within 1 hour of receiving error notification. Summary of efforts must be e-mailed every 2 hours detailing issues and attempts at resolution.
- Level 2 Errors – Begin professional resolution efforts within 4 hours of receiving error notification. Summary of efforts must be e-mailed every 4 hours detailing issues and attempts at resolution.
- Level 3 Errors – Begin professional resolution efforts within 8 “business” hours of receiving error notification. Summary of efforts must be e-mailed every 8 “business” hours detailing issues and attempts at resolution.